

WESTERN AUSTRALIA.

METROPOLITAN WATER SUPPLY, SEWERAGE, AND DRAINAGE ACT,
1909-1951.

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Approved for Reprint, 9th October, 1953.

WESTERN AUSTRALIA.

METROPOLITAN WATER SUPPLY, SEWERAGE, AND DRAINAGE ACT.

No. 43 of 1909.

[Affected by Acts Nos. 67 of 1912 and 4 of 1918.]

Reprinted for the second time as amended by Acts Nos. 30 of 1925*, 2 of 1941†, 13 of 1951** and 41 of 1951‡ pursuant to the provisions of the Amendments Incorporation Act, 1938.

AN ACT to constitute the Metropolitan Water, Sewerage, and Drainage Area ; to establish the method of control, and for other purposes incidental thereto.

[Assented to 21st December, 1909.]

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

PART I.—PRELIMINARY.

1. This Act may be cited as the *Metropolitan Water Supply, Sewerage, and Drainage Act, 1909–1951*.

Short title.
No. 43 of
1909, s. 1
amended
by No. 41 of
1951, s. 4 (2).

Commence-
ment.

2. This Act shall come into operation on a day, not later than the first day of May, one thousand nine hundred and ten, to be fixed by proclamation.‡

Provided that by such proclamation the operation of this Act, or any part thereof, may be restricted to any districts named in the proclamation, and may by any subsequent proclamation§ be extended to any other district.

* Assented to 16th December, 1925 : came into operation 1st July, 1926—see Proclamation published in *Gazette* dated 28th May, 1926.

† Assented to 25th September, 1941.

** Assented to 20th November, 1951.

‡ Assented to 20th December, 1951 : came into operation 4th April, 1952—see Proclamation published in *Gazette* dated 4th April, 1952.

§ Came into operation 24th January, 1910, in Perth, Fremantle, and Claremont Districts of the Metropolitan Water, Sewerage, and Drainage Area—see Proclamation published in *Gazette* dated 21st January, 1910, and footnotes to s. 6 and to the Second Schedule.

¶ See footnotes to s. 6 and to the Second Schedule.

NOTE.—In this reprint the numbering of the parts, sections, etc., in Act No. 43 of 1909 is retained.

Division.

3. This Act is divided into Parts as follows :—

PART I.—PRELIMINARY, ss. 1-5.

PART II.—THE AREA AND DISTRICTS, ss. 6, 7.

PART III.—ADMINISTRATION, ss. 8-12.

PART IV.—WATER RESERVES, ss. 13-17.

PART V.—VESTING OF PROPERTY AND THE CONSTRUCTION AND MAINTENANCE OF WORKS, ss. 18-35.

PART VI.—WATER SUPPLY, ss. 36-57—

(1) *The Supply and Distribution of Water*, ss. 36-46.(2) *The Protection of Works and the Prevention of Waste*, ss. 47-57.

PART VII.—DRAINAGE, ss. 58-71.

PART VIII.—RATES AND SALE OF WATER, ss. 72-124.

(1) *Rateable Property*, s. 72.(2) *Rate Books*, ss. 73-84.(3) *Appeals*, ss. 85-89.(4) *The Making of Rates*, ss. 90-97A.(5) *Payment of Rates and for Water*, ss. 98-102.(6) *Liability for and Recovery of Rates*—

(i) Generally ss. 103-112 ;

(ii) Power to Lease, ss. 113-117 ;

(iii) Power of Sale, ss. 118-124.

PART IX.—FINANCE, ss. 125-140.

PART X.—ACCOUNTS AND AUDIT, ss. 141-145.

PART XI.—BY-LAWS, ss. 146-148.

PART XII.—GENERAL PROVISIONS, ss. 149-166.

Repeal.
First
Schedule.

4. The Acts mentioned in the First Schedule are hereby repealed :

See No. 14 of
1904, s. 3.

But such repeal shall not affect any right, privilege, obligation or liability acquired, accrued, or incurred under such Act, or any Act thereby repealed, or any act, deed, matter, or thing lawfully done thereunder ;

And notwithstanding such repeal :

All proceedings and things lawfully had or done by the proper authority under or in pursuance of any of the said Acts shall be and continue of the same force and effect, to all intents and purposes, as if no repeal had taken place.

All by-laws lawfully made under any of the said Acts, and in force at the commencement of this Act, shall, until amended or repealed under this Act, continue in force and be deemed to have been made under this Act.

All rate books and lists of ratepayers made under any of the said Acts, and in force at the commencement of this Act, shall be deemed to have been made under this Act, and this Act shall apply to the same accordingly.

All rates and other moneys which, at the commencement of this Act, are due and payable, or accruing due under any of the said Acts, shall be and become due and payable to, and shall be received and may be recovered by the Minister appointed under this Act.

All penalties and forfeitures imposed under any of the said Acts, and incurred before the commencement of this Act, may be enforced by the Minister appointed under this Act.

All rights, liabilities, contracts, and engagements of any authority constituted under any of the said Acts, and existing at the commencement of this Act, shall be vested in and shall attach to and may be enforced by or against the Minister appointed under this Act.

All actions and proceedings pending at the commencement of this Act by or against any authority constituted under any repealed Act may be carried on and prosecuted by or against the Minister appointed under this Act.

All books and documents made evidence under any of the said Acts shall continue evidence to the same extent as if the said Acts had not been repealed.

Except so far as there is anything in this Act inconsistent therewith, this Act shall apply to all matters and things made, done, or commenced under any of the said repealed Acts, as if this Act had been in force at the time, and the Minister had been duly appointed thereunder.

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

“Area”—The Metropolitan Water, Sewerage, and Drainage Area constituted under this Act ;

Interpre-
tation.
See No. 14
of 1904, s. 4.

- “ Authorised ”—Authorised by the Minister ;
- “ By-laws ”—By-laws made by the Minister under the authority of this Act ;
- “ Catchment area ”—All land over, through, or under which any water flows, runs, or percolates directly or indirectly into any reservoir erected or used by the Minister in connection with any water supply.
- “ District ”—A water district or sewerage district or storm water district constituted by or under this Act ;
- “ District ” in relation to local authorities—A Municipal district or a road district ;
- “ Drain ”—Every part of any conduit laid through, under, or upon any street, way, or land, whether public or private, by or at the expense of the owner or occupier of any premises for the carriage therefrom of any sewage to any sewer ;
- “ Fittings ”—All pipes, meters, or other apparatus used for or in connection with the supply of water ; and all pipes, cisterns, traps, syphons, manholes, ventilators, and all other apparatus connected with and requisite to secure the safe and proper working of any sewer or drain ;
- “ Land ”—Messuages, lands, tenements, and hereditaments of any tenure, and the houses, buildings, and structures, thereon ;
- “ Local Authority ”—The Council of a Municipality or the Board of a Road District, or any Local Board of Health ;
- “ Local Government Act ”—Any Act whereby a local authority is constituted ;
- “ Metropolitan Board of Water Supply and Sewerage ”—The Board constituted under “ The Metropolitan Water and Sewerage Act, 1904 ” ;
- “ Minister ”—The Minister of Water Supply, Sewerage, and Drainage, charged 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 His 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, reticulation, or service pipe used for or in connection with the supply of water ;
- “ Prescribed ”—Prescribed by this Act or any by-law made under this Act ;
- “ Proclamation ”—A proclamation by the Governor published in the *Government Gazette* ;
- “ Ratepayer ”—A person named in the books of the Minister as a person liable to pay rates ;
- “ Reservoir ”—A reservoir, dam, tank, cistern, or well ;
- “ Sewer ”—Every part of any conduit through, under, or upon any street or land, whether public or private, for the carriage of any sewage, not being a drain within the meaning of this Act ;
- “ Sewerage Works ”—The sewers to which this Act extends, and all treatment works, pumps, pumping stations and machinery, fittings, and things connected therewith, and all land acquired, held, or used by the Minister for the purposes of this Act in relation to sewerage ;
- “ Stream ”—A river, creek, brook, spring, aqueduct, conduit, tunnel, sluice, or other running water ;
- “ Street ”—A road, street, lane, thoroughfare, or other public highway, or a public passage or place, or a public wharf, jetty, or bridge, and any private road maintained by the local authority ;

- “ Storm Water Drain ”—Any drain whereby any storm or street water is carried off ;
- “ Storm Water Drainage Works ”—All storm water drains, and all treatment works, pumps, pumping stations, and machinery, fittings, and things connected therewith, and all land acquired, held, or used by the Minister for the purposes of this Act in relation to storm water drainage ;
- “ Watercourse ”—The bed of a river, creek, or other channel in which water flows either ordinarily, intermittently, or occasionally ;
- “ Waterworks ”—All reservoirs, wells, bores, pumps, pumping stations and machinery, tanks, aqueducts, tunnels, buildings, engines, pipes, or other works for the supply and distribution of water, and all lands acquired, held, or used by the Minister for the purposes of this Act in relation to water supply ;
- “ Works ” means and includes waterworks, sewerage works and storm water drainage works.

PART II.—THE AREA AND DISTRICTS.

Constitution
of Area and
Districts.
See No. 14 of
1904, s. 6.

6. (1) There is hereby constituted a water, sewerage, and drainage area for the purposes of this Act, by the name of the Metropolitan Water, Sewerage, and Drainage Area.

(2) The said Area is divided into four Districts, namely—

- (a) The Perth District.
- (b) The Fremantle District.
- (c) The Claremont District.
- (d) The Guildford District.

Second
Schedule.

(3) The boundaries of the Area and the Districts thereof are as defined in the Second Schedule.

(4) The Governor may, by Order in Council,* divide the Area into Storm Water Districts, and define the boundaries of such Districts.

* See footnote to Second Schedule.

7. The Governor may, by Order in Council,* from time to time—

Power to alter boundaries.
See No. 14 of 1904, s. 7.

- (a) alter or extend the boundaries of the Area or of any District ;
- (b) re-divide the Area and increase or reduce the number of the Districts, and re-define the boundaries of the Districts.

PART III.—ADMINISTRATION.

8. (1) For the purposes of carrying this Act into execution there shall be a Minister of Water Supply, Sewerage, and Drainage, by whom this Act shall be administered.

Method of control.

(2) The Minister of Water Supply, Sewerage, and Drainage shall be the Member of the Executive Council holding for the time being the office of Minister for Works.

(3) The Minister of Water Supply, Sewerage, and Drainage shall by that name be a body corporate with perpetual succession and a common seal, and may sue or be sued, and shall have power to purchase, take, hold, sell, lease, or dispose of real and personal property for the purposes of this Act.

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

Appointment of officers and servants.
See No. 14 of 1904, s. 25.

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

Certain officers to give security.
See No. 14 of 1904, s. 26.

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

Minister not to be personally liable.
S.A. 1878, No. 106, s. 21.

* See footnote to Second Schedule.

Minister
may delegate
his powers.
S.A. 1878,
No. 106, s. 22.

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

PART IV.—WATER RESERVES.

Water
reserves.
See No. 14 of
1904, s. 31.

13. The Governor may, by Proclamation, constitute and define the boundaries of any water reserve or catchment area for the purposes of this Act, and may vest such reserve or catchment area in the Minister.

Power to
divert,
intercept,
and store
water.
See No. 14 of
1904, s. 32.

14. The Minister may divert, intercept, and store all water coming from the streams, watercourses, and other sources within the boundaries of any such reserve or catchment area, and alter the course of any stream or watercourse, and may take any water found on or under such land.

Power to
take land.
See No. 14 of
1904, s. 33.

15. The Minister may take any alienated land within the boundaries of any water reserve or catchment area under and subject to the provisions of the Public Works Act, 1902.*

Penalty for
diverting
water.
See No. 14 of
1904, s. 34.

16. Any person who, without the authority of the Minister, diverts water from any stream, watercourse, or source of supply within any water reserve or catchment area, or does any act whereby such stream may be diverted or diminished in quantity or injured in quality or purity, shall be liable to a penalty not exceeding five pounds 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.

* Now the Public Works Act, 1902-1950.

17. (1) For preventing the pollution of water within a water reserve or catchment area, the Minister shall have all the powers and authority of a Local Board of Health, including the power to make and enforce by-laws under any Act relating to public health.

Minister may exercise powers of Local Board of Health.
See No. 14 of 1904, s. 35.

(2) All the provisions of the Health Act, 1898,† and of all Acts amending the same or incorporated therewith, shall apply to every water reserve and catchment area as if the same were the district of a Local Board of Health.

PART V.—VESTING OF PROPERTY AND THE CONSTRUCTION AND MAINTENANCE OF WORKS.

18.‡ (1) All waterworks, sewerage works, and other works, and all property of every kind whatsoever at the commencement of this Act vested in, belonging

Existing works vested in Minister.
See No. 14 of 1904, s. 130.

† Now the Health Act, 1911-1952.

‡ By sections 3, 4, and 5 of the Water Supply, Sewerage and Drainage Act, 1912 (No. 67 of 1912) it was enacted as follows :—

3. (1) The Acts mentioned in the Schedule, and all other Acts relating to water supply, sewerage, drainage, and irrigation that the Governor may declare by proclamation to be subject to this Act, shall, except as hereinafter provided, be administered by the Minister of Water Supply, Sewerage, and Drainage.

Administration.
Schedule.

Provided that nothing in this Act shall affect the provisions of the said Acts relating to the constitution of boards ;

Provided, also, that the Governor may, in his discretion, revoke any Order in Council, made before or after the commencement of this Act, for the constitution of any board, and dissolve the board constituted pursuant to any order so revoked.

(2) The term " Minister " in the Acts mentioned in the schedule to this Act shall mean the Minister of Water Supply, Sewerage and Drainage appointed under this Act, who is hereinafter referred to as " the Minister."

4. (1) All lands acquired for or dedicated to the purposes of any of the Acts mentioned in the schedule, and all water works, sewerage, drainage, and irrigation works constructed or in course of construction under any of the said Acts, or constructed by the Government and declared by the Governor to be subject to any of the said Acts, shall vest in the Minister on behalf of His Majesty—

Lands and works vested in Minister.

(a) unless and until such lands and works to which the Acts mentioned in Part II of the Schedule apply are vested in a board ; or

(b) on the dissolution of any board in which such lands and works may have been vested.

(2) The Minister may exercise the powers and authorities, and shall have the immunities, conferred on a board by the Acts mentioned in Part II of the Schedule in respect of such works—

(a) until the works are vested in a duly constituted board ; and

(b) after the dissolution of the board in which the works may have been vested.

5. All the property and assets of, and all rates, charges, and other moneys whatsoever due or accruing to the Minister appointed under the Metropolitan Water Supply, Sewerage, and Drainage Act, 1909, are hereby vested in and shall be recoverable by the Minister appointed under this Act and all the liabilities of the Minister appointed under the Metropolitan Water Supply, Sewerage, and Drainage Act, 1909, shall become the liabilities of the Minister appointed under this Act.

Transfer of assets and liabilities under Act No. 43 of 1909.

The Schedule referred to in ss. 3 and 4 of Act No. 67 of 1912, as amended by No. 8 of 1950, is as follows :—

PART I.

The Water Supply Act, 1893.

The Metropolitan Water Supply, Sewerage, and Drainage Act, 1909-1941.

PART II.

Metropolitan Water Supply, Sewerage and Drainage Act, 1909-1941.

Rights in Water and Irrigation Act, 1914-1949.

Land Drainage Act, 1925-1941.

Water Boards Act, 1904-1940.

Country Areas Water Supply Act, 1947-1950.

Country Towns Sewerage Act, 1948.

to, or under the control of the Metropolitan Board of Water Supply and Sewerage shall, by force of this Act, and without any conveyance, transfer, or assignment, vest in and become the property of the Minister appointed under this Act, and all such works shall be deemed to have been lawfully constructed under the authority of this Act.

(2) The waterworks constructed by the Goldfields Water Supply Administration in the Guildford District shall vest in and become the property of the Minister at such time as the Governor may, by Order in Council, appoint, and upon and subject to such terms and conditions as the Governor shall determine.

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

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

20. § The Minister shall, before undertaking the construction of such works, except such reticulation works as the Governor may exempt from the operation of this section and the next four following sections,—

- (a) Cause to be prepared plans, sections, specifications, and an estimate of the cost of the proposed works, together with a statement showing the net earnings estimated to be derived from them, and a statement showing the 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

* Now the Public Works Act, 1902-1950.

§ It was enacted by s. 2 of Act No. 4 of 1918 as follows :—

2. Non-compliance with any of the provisions of sections nineteen to twenty-three (both inclusive) of the Water Supply, Sewerage, and Drainage Act, 1909, or failure to obtain the approval of the Governor as therein provided, shall not render illegal or be deemed to have rendered illegal the construction or extension of any sewerage works undertaken or carried out by the Minister of Water Supply, Sewerage, and Drainage prior to the 31st December, 1916, but such works shall be deemed to have been constructed or extended lawfully and with statutory authority, as if the said provisions had been complied with in all respects and the Governor's approval duly obtained.

Minister may construct works.
See No. 14 of 1904, s. 40.

Preliminaries to construction.
See No. 14 of 1904, s. 41.
Q. 1891, No. 11, s. 47.

Non-compliance with sections 19-23 of Water Supply, Sewerage, and Drainage Act not to render Construction or extension of sewerage works illegal.

- (b) Cause an advertisement to be published in the *Government Gazette*, and in one or more newspapers generally circulating in the area, specifying :—
- (i) a description of the proposed works ;
 - (ii) the localities in which they will be constructed ;
 - (iii) the purposes for which they are to be constructed, and the parts of the area which are intended to be supplied with water or drained ;
 - (iv) the times when, and places at which the plans, sections, and specifications, may be inspected.

21.* The plans, sections, specifications, and estimates so deposited shall be open to inspection by any person interested at all reasonable times, on payment of the prescribed fee.

Plans, etc., open to inspection. See No. 14 of 1904, s. 42.

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

Objections. See No. 14 of 1904, s. 44.

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

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

Governor may authorise construction of works. See No. 14 of 1904, s. 45.

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

* See footnote § to s. 19 ante.

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

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

- (a) Make surveys and take levels of the same, and set out such parts thereof as they may think fit, and may dig or break up the soil of such land, and trench and fence in the same, and remove or use any earth, stones, trees, and other things taken therefrom ;
- (b) Sink or acquire wells, bores, or shafts, erect buildings, pumping stations and pumping machinery, and make, maintain, alter, or discontinue reservoirs, drains, culverts, aqueducts, flumes, or other waterworks, upon the lands authorised to be taken ;
- (c) Construct, alter, and maintain, under any street, and through, across, or under any land, aqueducts, flumes, pipes, or other works necessary for conveying water ;
- (d) Construct, alter, and maintain sewers or drains under any street, and through, across, or under any land ;
- (e) Open and break up the soil of any street or of any land, and excavate and sink trenches for the purpose of laying down, making, and constructing pipes, sewers, and drains therein ;
- (f) Cause any sewers to discharge upon such land as may be acquired by the Minister for that purpose, or to communicate with the sea or any arm thereof, or with any river or watercourse, either within or without the limits of a district ;

Powers of
Minister.
See No. 14 of
1904, s. 46.
N.S.W. 1880,
No. 32, ss.
40, 82.
Q. 1891,
No. 11, s. 54.

- (g) Open, cleanse, and repair such pipes, sewers, and drains, or alter the position or construction thereof ;
- (h) Make any sewers or drains from any main sewer laid in any street, into any dwelling-house, public or private building, or other premises for the purpose of cleansing and draining any such house, building, or premises by means of such sewers or drains ;
- (i) Do all such other acts, matters, and things as they may from time to time deem proper for making, repairing, completing, or improving any such waterworks, pipes, sewers, and drains or other works to be made, done, and provided for the purposes of this Act :

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

Provided, also, that the Minister shall make to every person interested compensation for any actionable damage actually sustained by him through the exercise of the powers conferred by this Act, but any dispute as to the right of any such person to receive compensation, or the amount thereof, shall be heard and determined by a Compensation Court duly constituted under the provisions of the Public Works Act, 1902,* and in the manner provided in that Act, and not otherwise.

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

* Now the Public Works Act, 1902-1950.

Acquisition
of land.
See No. 14 of
1904, s. 46 (2).

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

Notices to
be served
on local
authority
before
breaking up
streets.
See No. 14 of
1904, s. 47.

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

Street not
to be broken
up except
under super-
intendence
of local
authority.
See No. 14 of
1904, s. 48.

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

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

Streets
broken up
to be
reinstated
without
delay.
See No. 14 of
1904, s. 49.

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

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

* Now the Public Works Act, 1902-1950.

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

Local authorities to give particulars as to levels. See No. 14 of 1904, s. 50.

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

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

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

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

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

Gas pipes, etc., to be altered when necessary. See No. 14 of 1904, s. 51.

31. The Minister may open the ground and change the level of or otherwise amend or enlarge any sewer lying under any public or private street or place within the district for better communicating with the main sewers or storm-water drains :

Altering sewers. See No. 14 of 1904, s. 52. See N.S.W. 1880, No. 32, s. 97.

Provided that no person shall, by means of any such alteration, amendment, or enlargement, be deprived of the use and enjoyment of any private sewer or drain which he shall be entitled to use ; but the

the Minister shall, at his own cost and charges, so construct and alter any such private sewer or drain as to render the same as effectual for the purposes for which it was intended as any such sewer or drain may be at the time of such alteration.

Minister to keep sewers cleansed.
See No. 14 of 1904, s. 53.
See N.S.W. 1880, No. 32, s. 98.

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

As to ventilators, etc.
See No. 14 of 1904, s. 54.

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

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

Maps of water sewerage districts.
See No. 14 of 1904, s. 55.

34. The Minister shall cause to be made a map of each District, on such scale and with such indications of levels and particulars of mains, sewers, and other works as the Minister may think expedient, and shall cause such map to be from time to time revised, and such additions made thereto as may show the new mains, sewers, drains, and works, and the date of every revision shall be expressed therein.

Every such map shall be kept in the office of the Minister, and the same or a copy thereof shall be open, at all reasonable times, to the inspection of the owner or occupier of any land within the district.

35. After the commencement of this Act it shall be unlawful for any person to sink an artesian bore, or increase the depth of any existing artesian bore, within the Area without the authority of the Governor, and the Supreme Court may, at the suit of the Minister, restrain any person by injunction from so doing.

Artesian bores not to be sunk without approval of Governor. See No. 14 of 1904, s. 36.

PART VI.—WATER SUPPLY.

(1) The Supply and Distribution of Water.

36. 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 Minister with the quantity of water for domestic purposes 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 for domestic and other purposes by measure.

Supply to rated land. See No. 14 of 1904, s. 56.

37. On receiving from the owner or occupier of any land rated under this Act a written request for a supply of water, the Minister shall, as soon as conveniently may be, 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. See No. 14 of 1904, s. 57.

38. (1) The owner or occupier of land not rated under this Act may, in writing, request the Minister to supply water.

Supply to land not rated. See No. 14 of 1904, s. 58.

(2) In such case the Minister may, if he 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.

39. (1) The Minister may cause a meter to be attached to any pipe on any land supplied with water under this Act.

The Minister may supply meter and charge by measure. See No. 14 of 1904, s. 59.

(2) 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 Minister consents to its removal, or to a supply of water to a part of the land otherwise than by means of the meter.

(3) The Minister 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 Minister necessary, provided that no charge shall be made on meters supplied to private residences.

Record of meter to be *prima facie* evidence of water supplied.
See No. 14 of 1904, s. 60.

40. 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
- (2) A certificate purporting to be signed by an officer of the Minister 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.

Provided that in case of dispute a test shall be made by the Minister, the cost of which shall be borne by the party found to be in error.

Water may be cut off from unoccupied premises.
See No. 14 of 1904, s. 61, and 63 Vict. No. 34, s. 4.

41. (1) The Minister may turn or cut off the water supply to any land—

- (a) If the land to which water is supplied is unoccupied ; or
- (b) 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
- (c) When any person refuses or neglects, after demand, to pay all rates and moneys due and payable by such person to the Minister for water supplied to such land ; or

- (d) If the occupier refuses to permit a meter to be attached to any pipe on his land ; or
- (e) 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.

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

Provision for supplying groups of houses. See No. 14 of 1904, s. 62.

43. (1) The owner or occupier of land not situated within the Area may request the Minister to supply water to such land.

Supply to persons outside area. See No. 14 of 1904, s. 63.

(2) In each case the Minister may comply with such request on such terms as he may think fit, and, if he complies, may construct all necessary works for supplying water to such land.

Provided that any land to which the Minister supplies water under this section, and the owner or 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 lands were situated within the 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 Minister.

44. [Repealed by No. 41 of 1951, s. 4 (3).]

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

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

Former s. 45 repealed and s. 44 repealed and re-enacted as s. 45 by No. 41 of 1951, s. 4 (3) and (4).
Fire hydrants. Interpretation.

“ 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.

Minister to fix or abolish hydrants.

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

Board may request Minister to instal or abolish hydrant.

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

Local authority may request Minister to instal or abolish hydrant.

(4) A local authority may request the Minister 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.

Minister to comply

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

Minister to keep hydrants in order.

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

Minister to render statements of account.

(7) The Minister 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 Minister of the labour and materials incurred in doing so, except the cost of re-instatement, and shall render to the local

* 4th April, 1952. See Proclamation published in *Gazette* dated 4th April, 1952.

authority in whose district the work is done a statement of account of the cost to the Minister of the labour and materials incurred in re-instatement.

(8) The Minister 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 Minister of the labour and materials in doing so, including that of re-instatement.

Minister to render statements of cost of labour and materials.

(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 Minister in a court of competent jurisdiction as a debt due.

Minister may recover amount of statement if not paid.

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

Vesting of hydrants.

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 Minister 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—

Minister to deposit keys of hydrant at specified station.

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 Minister deliver them to such person at such time as the Minister specifies.

At Minister's request keys to be delivered to specified person.

Supply of water not compulsory. See No. 14 of 1904, s. 66.

46. It shall not be compulsory on the Minister to supply or continue to supply water to any person, and the Minister shall not be liable to any penalty or damages for not supplying or continuing to supply water.

(2) *The Protection of Works and Prevention of Waste.*

Duty to keep fittings in repair. See No. 14 of 1904, s. 67.

47. 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. See No. 14 of 1904, s. 68.

48. No person shall—

- (a) connect a meter, pipe, or other fitting through which water is or is intended to be supplied ; or
- (b) 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 Minister, or of an authorised officer in that behalf.

Power to enter and examine whether water is wasted, etc. See No. 14 of 1904, s. 69.

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

- (a) what quantity of water has been consumed there ;
- (b) whether there has been or is any waste, misuse, fouling, or contamination of the water ; and
- (c) 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 Minister may repair or remove it, and if necessary substitute others in its stead, or may alter the mode of arrangement, as the case requires.

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

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

Protection of fittings. See No. 14 of 1904, s. 70.

(2) 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.

51. (1) Any person authorised by the Minister 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 Minister thinks proper, such fittings as the Minister may think expedient, and may do all other acts and execute all other works which the Minister may think fit.

Power to enter on land and fix fittings. See No. 14 of 1904, s. 71.

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

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

Penalty for using unauthorised fittings. See No. 14 of 1904, s. 72.

- (a) 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 Minister ; or

- (b) alters, misuses, injures, or removes any authorised fitting, except for the purpose of necessary repair,

he shall forfeit and pay to the Minister a sum not exceeding fifty pounds, and shall, in addition, be liable to pay to the Minister any damages sustained by the Minister in respect of any injury done to his property, and the value of any water wasted, misused, or unduly consumed.

Penalty for not repairing fittings.
See No. 14 of 1904, s. 73.

53. If any person supplied with water by the Minister causes or suffers any pipe, receptacle, fitting, or other apparatus used in connection with water supplied to him by the Minister 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 Minister is, or is likely to be wasted, misused, unduly consumed, or contaminated so as to allow the return of foul air or any noisome or impure matter into a pipe belonging to the Minister, or connected with any such pipe, he shall forfeit and pay to the Minister a sum not exceeding ten pounds, and forty shillings for every day during which such default shall continue.

Penalty for destroying valves, etc.
See No. 14 of 1904, s. 74.

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

- (a) wilfully or carelessly breaks, injures, opens or shuts, or wilfully permits to be broken, injured, opened or shut, any lock, sluice, cock, valve, pipe, or other authorised fitting, or any work belonging to the Minister ; or
- (b) flushes or draws off the water from any waterworks of the Minister ; or
- (c) 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 Minister a sum not exceeding fifty pounds, and shall, in addition, be liable to pay to the Minister any damage sustained in respect thereof, as well as 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.

55. If any person uses or consumes, or permits to be used or consumed, any water belonging to the Minister, contrary to the provisions of this Act and the by-laws thereunder, he shall forfeit and pay to the Minister a sum not exceeding fifty pounds.

Penalty for taking, etc., water in contravention of this Act. See No. 14 of 1904, s. 75.

56. Any person who fraudulently takes or causes to be taken any water belonging to the Minister from a reservoir, main, or pipe belonging to or vested in the Minister, 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. See No. 14 of 1904, s. 76.

57. If any person supplied with water by the Minister—

(a) does or causes or permits to be done anything in contravention of the provisions of this Act or of the by-laws ; or

(b) 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 water,

Other consequences of contravening this Act or the by-laws. See No. 14 of 1904, s. 77.

the Minister may (without prejudice to any other remedy against such person) cut off any of the pipes by or through which water is supplied by the Minister 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 VII.—DRAINAGE.

58. (1) As soon as any sewer, or any part thereof, is completed and ready for use, the Minister may, by notice in writing, demand that the owner or occupier of any land situated within the district and

Owners and occupiers to make drains to public sewers. See No. 14 of 1904, s. 78.

capable, in the opinion of the Minister, of being drained into such sewer shall construct such drains and fittings from and in connection with such land to communicate with such sewer, as the Minister may determine.

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

Minister may make drains and attach ventilators in default of compliance with orders. See No. 14 of 1904, s. 79.

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

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

(3) The Minister may in any such case recover from every such owner or occupier, by the like proceedings and with the like remedies other than distress against the goods and chattels of the occupier as if such expenses were a sewerage rate, the full amount of the expenses of making such drains or fittings, or attaching or connecting such ventilating shafts, pipes, or tubes.

Cost of drains by whom payable. See No. 14 of 1904, s. 80.

60. The cost of providing, laying down, constructing and fixing in readiness for use such drains and fittings shall, as between the owner and occupier of the land, be payable by the owner.

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

Persons liable for payment for compulsory drainage may agree to pay by deferred payments. See No. 14 of 1904, s. 91.

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

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

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

No private drain or sewer to be made without notice. See No. 14 of 1904, s. 82.

63. (1) All drains and fittings communicating with any sewer shall from time to time be repaired and cleansed, under the inspection or direction of the Minister, at the expense of the owner or occupier of the land in respect of which the said drains shall have been constructed; and in case any such owner or occupier shall neglect to repair or cleanse any such drain according to the direction of

Drains to be cleansed. See No. 14 of 1904, s. 83.

the Minister, he shall, upon conviction, for every such offence, forfeit and pay a penalty not exceeding ten pounds.

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

Notice to be given to the Minister before commencing or continuing sanitary work.
See No. 14 of 1904, s. 84.

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

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

If the owner or occupier—

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

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

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

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

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

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

Inspection
by Minister.
See No. 14 of
1904, s. 85.

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

Penalties
on persons
encroaching
on sewers.
See No. 14 of
1904, s. 86.

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

Inspection
of com-
municating
drains.
See No. 14 of
1904, s. 87.

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

Penalty for
giving use
of drain
without
permission.
See No. 14 of
1904, s. 88.

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

Penalty for
destroying
sewers and
fittings.
See No. 14 of
1904, s. 89.

69. Every person, who, not being authorised by the Minister, wilfully or carelessly breaks, injures, or opens, or permits to be broken, injured, or opened, any sewer, drain, or fitting, or any other work, shall for every such offence be liable to a penalty not exceeding fifty pounds, besides the amount of the expense to which the Minister may be put in respect thereof in repairing such sewer, drain, fitting, or work,

and the amount of such expense shall be ascertained, determined, and recovered in the same manner as such forfeited sum.

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

Where separate properties are drained by a common drain each to be liable. See No. 14 of 1904, s. 90.

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

Agreement with Minister. See No. 14 of 1904, s. 91.

PART VIII.—RATES AND SALE OF WATER.

(1) *Rateable Property.*

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

What shall be rateable property. See No. 14 of 1904, s. 4; No. 32 of 1906, s. 376.

- (a) Land the property of the Crown and used for public purposes, or unoccupied ;
- (b) Land vested in or in the use and occupation of a local authority and not held or occupied by any tenant under the local authority ;
- (c) Land belonging to any religious body, and used or held exclusively as or for a place of public worship, a Sunday-school, a place of residence of a minister of religion, a convent, nunnery, or monastery, or by a religious brotherhood or sisterhood ;

- (d) Land used exclusively as a public hospital, benevolent asylum, orphanage, public school, private school (being the property of a religious body), public library, public museum, public art gallery, or mechanics' institute ;
- (e) Land used, occupied, or held exclusively for charitable purposes ;
- (f) Land vested in any board under the Parks and Reserves Act, 1895*, or in trustees for agricultural or horticultural show purposes, or zoological or acclimatisation gardens or purposes or for public resort and recreation ;
- (g) Land used or held as a cemetery ;
- (h) Land declared by the Governor or by any Act to be exempt from rates under this Act ;

Provided that no exempted land shall become liable to be rated by reason of such land being used for the purposes of any bazaar, or as a place of meeting for any religious, charitable, temperance, or benevolent object, or for a polling place at any parliamentary or other election :

Provided also that—

- (i) Any land exempted by paragraphs (c), (d), and (e) of this section shall be deemed rateable property while the same is leased or occupied for any private purpose ; and
- (ii) Any land used or occupied for any of the purposes mentioned in paragraphs (d) and (e) of this section shall be deemed to be rateable property if such property is held under lease or rented from any owner except the Crown.

(2) *Rate Books.*

73. The Minister shall cause rate books to be kept for each District in the form or to the effect of the Third Schedule, and shall enter therein all rateable

Rate books.
See No. 14 of
1904, s. 92.
Third
Schedule.

* See Parks and Reserves Act, 1895-1947.

land in the District with the several particulars indicated in the said schedule, and in the appropriate column shall state the estimated net annual value or unimproved capital value of such land.

74. Such annual value may, at the option of the Minister, be either—

Valuation.
See No. 14 of
1904, s. 93.

- (1) The current value of the local authority in whose district the land is situated ; or
- (2) A sum equal to the estimated full, fair, average amount of rent at which such land may reasonably be expected to let from year to year, on the assumption (if necessary to be made) that such letting is allowed by law, less the amount of all rates and taxes, and a deduction of twenty pounds per centum for repairs, insurance, and other outgoings ; or
- (3) An amount not exceeding six pounds per centum on the capital value of the land in fee simple.

75. (1) The Minister may adopt in any District a general system of valuation on the basis of the capital unimproved value of land instead of a valuation as prescribed by the last preceding section. Provided that this system shall not be used in the district of any local authority which is at the time levying rates on the estimated annual value of the land.

Assessment
on unim-
proved
values.
See No. 14 of
1904, s. 94.

(2) In such case the unimproved capital value of rateable land shall be inserted in the rate book in place of the annual value thereof.

(3) "Capital unimproved value" means the price which the land in fee simple, unencumbered by any mortgage or charge, and if no improvements existed thereon, might be expected to sell at the time of valuation if offered for sale.

76. (1) Every rate book shall be made up as early as may be in each year, and notice thereof shall forthwith be published in the *Government Gazette* and in at least one newspaper circulating in the District.

Rate book
to be open to
inspection.
See No. 14 of
1904, s. 95.

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

Minister may inspect rate books of local authorities. See No. 14 of 1904, s. 96.

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

Access to be given. See No. 14 of 1904, s. 97.

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

Penalty for not permitting inspection. See No. 14 of 1904, s. 98.

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

Clerks of local authorities to supply copy of rate book. See No. 14 of 1904, ss. 99, 100.

80. (1) The town clerk of every municipality and the secretary to the board of every road district in which any main-pipe, sewer, or drain is laid down, shall, if required by the Minister, as soon as practicable after the third Saturday in December in each year, and not later than one calendar month thereafter, deliver to the Minister a copy of the rate book of such local authority, verified as a true copy by the statutory declaration of the town clerk or secretary as the case may be.

Minister to pay for copy rate book.

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

Amendments to be notified.

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

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

Rateable value.
No. 43 of 1909, s. 81 amended by No. 2 of 1941, s. 2.
See No. 14 of 1904, s. 101.

82. The Minister may, from time to time, amend the rate book by adding the particulars of any property that may have become rateable, and by inserting the particulars 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.
See No. 14 of 1904, s. 102.

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

Notice of amendment to be given.
See No. 14 of 1904, s. 103.

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

Minister may use previous year's rate book.
See No. 14 of 1904, s. 104.

(3) *Appeals.*

85. Any person may appeal against any valuation of any property included in a rate book, or any amendment thereof; but no appeal shall be allowed when the valuation does not exceed the current valuation of the same land by the local authority, or the Commissioner of Taxation.

Grounds of appeal against assessment.
See No. 14 of 1904, s. 105.

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

Appeals, how made.
See No. 14 of 1904, s. 106.

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

Appeals to the Minister.
See No. 14 of 1904, s. 107.
Fourth Schedule.

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

(3) No appeal shall be entertained unless the appellant deposits with the Minister the amount of the rates then due and payable in respect of the valuation complained of.

Fifth
Schedule.

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

Appeals to
the Local
Court from
decisions
of the
Minister.
See No. 14 of
1904, s. 109.

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

Sixth
Schedule.

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

(3) The appeal shall come on for hearing at the sitting of the Local Court next after ten days from the service of such notice on the clerk of the Local Court.

Hearing of
appeal.
See No. 14 of
1904, s. 109.

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

(2) On any appeal to the Local Court, the Court may make such order as may seem just for the payment of the costs of the appeal, and may determine the amount of such costs; and payment of the same may be enforced in the same manner as a judgment of the Local Court.

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

(4) *The Making of Rates.*

90. The Minister shall, from time to time, make and levy water rates in respect of all rateable land within the several Districts, whether actually occupied or not, situated wholly or partly within sixty yards of any main or other pipe, although the land may not be actually supplied with water.

Land subject to water rates.
See No. 14 of 1904, s. 110.

91. The Minister shall, from time to time, make and levy sewerage rates in respect of all rateable land within any District in which a sewer, or any part thereof, is completed and ready for use: Provided that no land shall be rateable under this section unless such land is capable, in the opinion of the Minister, of being connected with such sewer, and notice thereof has been given, by or on behalf of the Minister, to the owner or occupier.

Land subject to sewerage rates.
See No. 14 of 1904, s. 111.

92. The Minister may make and levy storm water rates in respect of all rateable land within any District in which a storm water drain has been laid.

Land subject to storm water rates.

93. Separate rates shall be made for each District and for the following purposes:—

Separate rates to be made for each District.

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

Amount of rate. Substituted for former s. 94 by No. 30 of 1925, s. 2, amended by No. 13 of 1951, s. 3.

94. (1) No water rate shall in any one year exceed—

- (i) two shillings in the pound on the annual rateable value of the land rated, or
- (ii) fourpence in the pound on the capital unimproved value of the land rated, where the valuation is on the basis of the capital unimproved value of the land.

(2) The sewerage rate shall not in any one year exceed—

- (i) two shillings in the pound on the annual rateable value of the land rated, or
- (ii) fourpence in the pound on the capital unimproved value of the land rated, where the valuation is on the basis of the capital unimproved value of the land.

(3) The storm-water rate shall not in any one year exceed—

- (i) sixpence in the pound on the annual rateable value of the land rated, or
- (ii) one penny in the pound on the capital unimproved value of the land rated, where the valuation is on the basis of the capital unimproved value of the land.

(4) The Minister may make and levy a minimum rate of the prescribed amount upon any land the annual rate on which would not exceed such amount, but such prescribed amount shall not exceed, in the case of a water rate, one pound ; in the case of a sewerage rate, one pound ; and in the case of a storm-water rate, five shillings.

Manner of making rate. No. 43 of 1909, s. 95 amended by No. 2 of 1941, s. 3. See No. 14 of 1904, s. 113.

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

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

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

Rate for unexpired portion of year in case of new pipes, sewer or drain.
See No. 14 of 1904, s. 114.

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

"Gazette" evidence of striking of rate.
See No. 14 of 1904, s. 115.

97A. (1) Where the net annual value of any rateable land has been assessed in respect of any year and during the currency of that year it appears to the minister that by reason of any improvements made to or erected upon such land the amount of the annual value has become greater than the amount of the annual value then assessed, or that by reason of the destruction, damage, or demolition of improvements previously made and standing upon the said land the amount of the annual value has become less than the amount of the annual value then assessed, the Minister may cause the annual value to be reassessed for and in respect of the then unexpired portion of such year, and amend and adjust, either by increase or reduction, as the case may require, the amount of the rates payable upon the said land to the extent by which such reassessment of the annual value justifies the making of such amendment or adjustment as aforesaid.

Power to amend valuation and adjust rates in certain cases.
New s. 97A inserted by No. 2 of 1941, s. 4.

(2) The reassessment of the annual value of any rateable land under subsection (1) of this section shall be an amendment of the annual value of the land within the meaning and for the purposes of section eighty-five of this Act.

(5) Payment of Rates and for Water, etc.

Rates, when payable.
See No. 14 of 1904, s. 116.

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

Payment for water supplied by measure.
See No. 14 of 1904, s. 117.

99. 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.
See No. 14 of 1904, s. 118.

100. 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.

Supply to local authorities.
See No. 14 of 1904, s. 119.

101. The Minister may supply water by measure to any local authority or Government department at such reduced charge below the charge made, for the time being, to private consumers, as may be prescribed, and may make a charge at a prescribed rate for any sanitary service rendered by him to non-rateable land.

Rebate of sanitary rate paid to local authority.

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

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

Who is liable for rates.
See No. 32 of 1906, s. 407.

103. (1) The amount of any rates made and levied under this Act shall be payable, in the first instance, by the occupier of the land rated.

(2) The amount of such rates may also, at the option of the Minister, be recovered from the owner of the land rated.

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

104. If a mortgagee of rateable land pays any rates accrued thereon under this Act or any of the Acts hereby repealed, including any interest due upon such rates, the amount so paid by the mortgagee shall be deemed to be part of, or added to the principal moneys advanced by him under the mortgage, and shall be recoverable as such, with interest accordingly.

Payment of rates by mortgagee. See No. 32 of 1906, s. 408.

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

Rates apportioned on the occupier, etc., quitting. See No. 32 of 1906, s. 409.

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

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

Persons liable to be resorted to in succession. See No. 32 of 1906, s. 410.

Rates to carry interest. See No. 32 of 1906, s. 411.

107. When any rates have remained unpaid for a period of twelve months after the same became due and payable, such rates shall thereafter bear interest at the rate of five pounds per centum per annum, calculated at simple interest, and such interest may be recovered in the same manner as rates are recoverable under the provisions of this Act.

Discount on rates for prompt payment. See No. 32 of 1906, s. 412.

108. The Minister may, if so prescribed by the by-laws, allow to any person liable to pay any rates who pays such rates within thirty days after notice given to him to pay the same, a percentage by way of discount of not exceeding five pounds per centum of the amount of such rates.

How rates may be recovered. See No. 32 of 1906, s. 413.

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

Rate book to be evidence. See No. 32 of 1906, s. 417.

110. In any proceeding to recover, or consequent on the recovering of the amount due in respect of any rate, the rate book, duly signed or initialled by the Minister, and all entries made or purporting to be made therein, or certified copies thereof or extracts therefrom, shall be *prima facie* evidence of the contents of such book and of the due striking of such rate, and of the obligation of the person charged with the amount payable in respect of such rate to pay the same without any evidence that the provisions of this Act have been complied with.

Refusal to give name of person liable. See No. 32 of 1906, s. 418.

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

- (a) the occupier of any land refuses or wilfully omits to disclose, or wilfully mis-states to the Minister or collector making such re-

quest, the name of the owner of such land, or of the person receiving or authorised to receive the rents of the same ; or

- (b) the person receiving or authorised to receive the rents of the land on the like request so refuses or wilfully omits to disclose, or wilfully mis-states the name of the owner of the land,

he shall be liable to a penalty not exceeding five pounds.

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

Application of this Part to annexed areas.
See No. 32 of 1906, s. 420.

(ii) Power to Lease.

113. (1) When in respect of any land any rates accrued thereon under this Act, or any Act hereby repealed, or any Act thereby repealed, or any moneys due for water supplied, have, whether before or after, or partly before and partly after, the commencement of this Act been unpaid for three years, or longer, the Minister may, subject to the conditions hereinafter prescribed, and notwithstanding anything to the contrary contained in the Transfer of Land Act, 1893*, and notwithstanding any change that may have taken place in the meantime in the ownership of the land—

Power to lease land on which arrears of rates are due.
See No. 32 of 1906, s. 421.

- (a) Take possession of such land ;
- (b) Hold the same as against any person interested therein ; and
- (c) From time to time grant leases of the same.

(2) Land so taken possession of, held, or leased by the Minister shall continue to be rateable land.

* Now the Transfer of Land Act, 1893-1950.

Procedure.
See No. 32 of
1906, s. 422.

114. (1) The Minister shall not take possession of any such land until the expiration of three months after a notice has been given to every person in Western Australia appearing, on search in the Office of Titles or the Registry of Deeds, to have any estate or interest in the land.

Seventh
Schedule.

(2) The notice shall be in the form or to the effect of the Seventh Schedule.

Eighth
Schedule.

(3) A notice shall also be affixed upon some conspicuous part of the land, which notice shall be in the form or to the effect of the Eighth Schedule.

Ninth
Schedule.

(4) On taking possession of any land as aforesaid, the Minister shall cause to be affixed upon some conspicuous part thereof a notice, in the form or to the effect of the Ninth Schedule.

(5) Every such lease shall—

- (a) Be for such term, not exceeding seven years, as to the Minister seems fit ;
- (b) Reserve the best rent which in the opinion of the Minister can be reasonably obtained for the property ; and
- (c) Contain such other reservations and such exceptions, covenants, and conditions as to the Minister seem fit.

(6) Any lease granted by the Minister, otherwise in accordance with the provisions of this Act, shall be valid, notwithstanding the non-compliance with any of the provisions of this section.

(7) The lessee shall be entitled, during the term of the lease, to possession of the land as against all persons interested therein.

(8) The Registrar of Titles, upon the production to him of any such lease of land which is subject to the provisions of the Transfer of Land Act, 1893*, shall register the same, and for that purpose shall, if necessary, make such orders and publish such advertisements as are provided for in the case of dealings with land when the certificate of title is lost or not produced.

* Now the Transfer of Land Act, 1893-1950.

115. (1) Upon demand made by any person who but for the provisions of this Act would be entitled to the possession of any such land, such demand being made within twenty-five years after the taking possession thereof by the Minister, and upon payment of all rates and moneys due in respect thereof, and interest upon all arrears of such rates and moneys at the rate of five pounds per centum per annum, calculated at simple interest, the Minister shall, within three months, execute under its seal a release of such land from all rates and moneys due in respect thereof.

Release of property after demand and payment of arrears
See No. 32 of 1906, s. 423.

(2) If the Minister makes default in executing such release, the Supreme Court may, at the suit of any person interested in that behalf, order them to execute the same.

(3) Upon the execution of the release such person shall, subject to any lease theretofore lawfully granted by the Minister under the provisions of this Act, be entitled to such land and the possession thereof as would have been so entitled if this Act had not been passed ; and the tenant of such land under any such lease shall attorn to such person accordingly.

116. All rent and other moneys payable under any such lease shall, until the execution of a release as hereinbefore mentioned, or the expiration of twenty-five years from the taking possession thereof by the Minister, whichever first happens, upon receipt thereof by the Minister, be applicable—

Appropriation of rents received.
See No. 32 of 1906, s. 424.

Firstly—In defraying the expenses of and incidental to the giving of the notices hereinbefore mentioned, and the execution of the lease, and the collection of the rents ;

To defray expenses.

Secondly—In payment to the Minister of all arrears of rates and other moneys due in respect of such land, together with interest thereon calculated as hereinbefore provided, from the time when such rates or other moneys became due respectively, and in payment of all rates and other moneys accruing due thereon.

To pay arrears of rates, etc.

Residue.

The residue of any such moneys shall belong to such person as would, when the same respectively were received, have been entitled to receive the rents and profits of the land if this Act had not been passed.

Land, when vested in the Minister See No. 32 of 1906, s. 425.

117. Unless within twenty-five years after possession is taken of land under the foregoing provisions of this Act some person entitled in that behalf demands a release of the land, such land and all accumulations of rent and other moneys recovered on account thereof shall vest absolutely in the Minister.

(iii) Power of Sale.

When land may be sold. See No. 32 of 1906, s. 426.

Tenth Schedule.

118. (1) When in respect of any land any rates accrued thereon under this Act, or any Act hereby repealed, or any Act thereby repealed, or any moneys due for water supplied, have, whether before or after, or partly before and partly after, the commencement of this Act, been unpaid for five years or longer, the Minister may send to the clerk of the Local Court held within or nearest to the District in which such land is situated, a certificate of the total amount of rates and interest thereon due and in arrear at the date of the certificate in the form or to the effect of the Tenth Schedule.

Eleventh Schedule.

(2) Upon receipt of the certificate such clerk of the Local Court shall, at the cost of the Minister, forthwith publish once in the *Government Gazette* and in a newspaper a notice in the form or to the effect of the Eleventh Schedule, and shall serve personally or by a registered letter a like notice upon every person who, upon search in the Office of Titles and Registry of Deeds, appears to have any estate or interest in the land.

Warrant of execution. See No. 32 of 1906, s. 427.

119. (1) At the expiration of the time limited by such notice the clerk of the Local Court shall issue a warrant of execution against the land, unless all such rates or moneys due, together with interest thereon, calculated as hereinbefore provided, at the rate of five pounds per centum per annum, and all rates and other moneys accrued due on the land in the meantime, and all expenses incurred have been paid.

(2) The warrant of execution shall be directed to the bailiff of such court, and shall be executed by him against the land, notwithstanding any change that may have taken place in the meantime in the ownership of the land, for the recovery of the rates or moneys abovementioned, in the same manner as warrants of execution against land are executed under the laws in force for the time being relating to local courts.

(3) The warrant of execution shall be in the form or to the effect of the Twelfth Schedule. Twelfth Schedule.

120. A certificate of rates or other moneys unpaid sent by the Minister to a Clerk of a Local Court in the form and containing the particulars hereinbefore prescribed shall be sufficient authority to such clerk of the Local Court for the doing of the acts therein required to be done by him, and shall not be questioned by him on any ground whatsoever. Certificates to be conclusive.
See No. 32 of 1906, s. 428.

121. The moneys arising from the sale of the land 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— Application of proceeds.
See No. 32 of 1906, s. 428.

Firstly—In payment of the costs and expenses of the clerk of the Local Court of and in connection with the prescribed notices and the warrant of execution and the sale thereunder: Provided that, if the moneys arising from the sale of the land are sufficient to pay such costs and expenses, the same or the balance unpaid shall be a debt due by the Minister to the Clerk of the Local Court and may be recovered by him accordingly;

Secondly—In payment of all rates and other moneys and interest due and to expenses incurred by the Minister; and

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

Application of residue.
See No. 32 of 1906, s. 430.

122. After payment of the moneys abovementioned the residue of any moneys arising from the sale of the land shall belong to such person as would, if no sale had taken place, have been entitled to receive the rents and profits of the land :

Provided that if before any such residue is paid over by the clerk of the Local Court he receives a certificate under the hand of the mayor or chairman of any local authority that a certain specified amount is due to such local authority for arrears of rates in respect of such land, the clerk of the Local Court shall forthwith pay over to such local authority such residue or so much thereof as is sufficient to meet such claim for rates, and the balance only, if any, of such residue shall belong to such person as would, if no sale had taken place, have been entitled to receive the rents and profits of the land.

Duty of clerk to convey.
See No. 32 of 1906, s. 431.

123. The clerk of the Local Court shall execute a proper transfer or conveyance of the land to the purchaser, and the purchaser shall thereupon be entitled to be registered for an estate in fee simple in the land or for the entire estate or interest of the owner or occupier in default free of any encumbrance, except any tax, rate, or charge imposed by or under any Statute other than this Act.

Registration of purchaser.
See No. 32 of 1906, s. 432.

124. The Registrar of Titles, upon the production to him of any transfer as aforesaid of land which is subject to the provisions of the Transfer of Land Act, 1893*, shall register the same, and notwithstanding any provision of the said Act to the contrary, production of the certificate of title shall not be required, but for the purpose of registration the registrar shall, if necessary, make such orders and publish such advertisements as are provided for in the case of dealings with land when the certificate of title is lost or not produced.

* Now the Transfer of Land Act, 1893-1950.

PART IX.—FINANCE.

125. All assets and liabilities of the Metropolitan Board of Water Supply and Sewerage shall, on the commencement of this Act by force of this Act alone be and become the assets and liabilities of the Minister.

Transfer of assets and liabilities of Metropolitan Board of Water Supply and Sewerage.

126. (1) The Minister shall cause statements to be prepared—

Transfer of works from Metropolitan Board of Water Supply and Sewerage. See No. 14 of 1904, s. 131.

(a) of all works transferred from the control of the Metropolitan Board of Water Supply and Sewerage and by this Act vested in the Minister; and

(b) of all moneys expended from time to time out of moneys appropriated by Parliament to the construction of works under this Act or any Act hereby repealed.

(2) The Minister shall, with the approval of the Governor, determine the amount expended on the works transferred as aforesaid.

(3) The amount so determined, and all moneys so expended, shall be a liability of the Minister to the Colonial Treasurer, and interest at such rate not exceeding four pounds per centum per annum, and contribution to a sinking fund at such rate, not exceeding one pound per centum per annum, shall be chargeable thereon, as the Colonial Treasurer may determine.

(4) The Minister shall, with the approval of the Governor, allocate to each district an apportioned amount of all moneys which shall have been expended on works at the commencement of this Act, and thereafter the Minister shall allocate to each district such further capital expenditure as may be for the benefit of that district, and in the event of further expenditure of moneys upon works which are for the benefit of more than one district then the allocation of the capital charges to each district affected shall be adjusted by the Minister and such allocation shall be made in the proportion of the population served in each district.

(5) The Minister may, with the approval of the Governor, from time to time, re-allocate the capital expended for the time being to the several districts.

Revenue,
how applied.
See No. 14 of
1904, s. 132.

127. All revenue received by the Minister from rates, charges, rents or otherwise under this Act, shall be collected and received by him or his authorised officers and paid to the Colonial Treasurer, and shall be applied in the manner following, that is to say :—

- (a) In defraying the expenses incurred in the maintenance and management of the works, and the conduct of the business of the Minister ;
- (b) In payment of the interest and contributions to the sinking fund of any loan, the liability in respect of which is transferred to the Minister, or of any loan raised by the Minister ;
- (c) In the payment of any interest or instalment of principal or contributions to the sinking fund due in respect of any liability of the Minister to the Colonial Treasurer.
- (d) In the construction, extension, and improvement of works.

Power to
borrow
money.
See No. 14 of
1904, s. 133.

128. The Minister may, with the approval of the Governor, borrow money—

- (a) For the construction of works ;
- (b) To discharge the principal money of any existing loan or for the consolidation of the debts of the Minister ;
- (c) For any other purpose approved by the Governor.

Money to be
borrowed on
debentures
See No. 14 of
1904, s. 134.

129. All money borrowed by the Minister may be raised by the issue of debentures payable to bearer, with or without interest coupons attached, to be charged and secured upon the works constructed by or vested in the Minister under this Act, and upon the revenues of the Minister, or otherwise as the Minister, with the approval of the Governor, may determine.

130. The following provisions shall apply to debentures issued under this Act :—

Provisions relating to debentures. See No. 14 of 1904, s. 135. Thirteenth Schedule.

- (a) Every debenture shall be in the form or to the effect set forth in the Thirteenth Schedule.
- (b) Every debenture shall be sealed with the common seal of the Minister, and the debentures shall be numbered consecutively, beginning with the number one and proceeding in an arithmetical progression, whereof the common difference shall be one.
- (c) Every debenture, with the interest coupons (if any) annexed thereto, and every interest coupon, after being detached therefrom, shall pass by delivery and without any assignment or indorsement.
- (d) The bearer of every debenture or detached interest coupon shall have the same rights as if he were expressly named as payee therein.
- (e) No interest shall be payable in respect of any debenture except to the holder of the coupon representing the interest claimed, and upon delivery of the same.

131. Before raising any loan the Minister shall make provision for the re-payment thereof by the creation of a sinking fund, and for such purpose may, with the approval of the Governor, permanently appropriate any part of the revenues of the Minister.

Sinking fund to be created. See No. 14 of 1904, s. 136.

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

Investment of sinking fund. See No. 14 of 1904, s. 137.

133. 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.

Accumulated sinking fund to be applied in payment of loan. See No. 14 of 1904, s. 138.

Register of debentures. See No. 14 of 1904, s. 139.

134. The Minister shall keep, or cause to be kept in one or more books, a register of debentures, and within a reasonable time after the date of any debenture shall cause to be made an entry in the register specifying the number, date, and amount of the debenture; and the register may be inspected at all reasonable times by any person on payment of one shilling for each inspection. Such register shall be evidence of any matters required or authorised by this Act to be inserted therein.

Copies to be supplied. See No. 14 of 1904, s. 140.

135. Any person shall be entitled to obtain from the Minister copies or extracts, certified by the officer in whose custody the register is kept to be true copies or extracts of such register, upon payment for each copy or extract of a fee of two shillings and sixpence, and twopence for every folio of seventy-two words, and any copy or extract so certified shall be admissible in evidence.

Notice of trust not receivable. See No. 14 of 1904, s. 141.

136. No notice of any trust, expressed, implied, or constructive shall be received by the Minister, or by any officer of the same, in relation to any debenture issued under this Act.

Owners of securities not responsible for application of moneys. See No. 14 of 1904, s. 142.

137. A person advancing money, and receiving in consideration of such advance any debenture under this Act, shall not be bound to inquire into the application of the money advanced, or be in any way responsible for the non-application or mis-application thereof.

Receiver may be appointed in certain cases. See No. 14 of 1904, s. 143.

138. If, at the expiration of three months from the time when any principal money or interest has become due on any debenture, and after demand, in writing, the same is not paid, the holder thereof may, without prejudice to any other mode of recovery apply to the Supreme Court or any Judge thereof for the appointment of a receiver, and the said Court or any Judge thereof may, after hearing the parties, appoint as receiver some person to collect and receive the whole or a competent part of the rates, debts, funds, rents, fines, or other property of the Minister upon which the principal moneys or interest men-

tioned in such debenture is charged, until such principal or interest, or both (as the case may be), together with the costs of the application and of collection, shall be fully paid.

139. (1) Every such receiver shall be deemed an officer of and shall act under the direction of the Supreme Court.

Receiver an officer of Court, etc. See No. 14 of 1904, s. 144.

(2) The Supreme Court or any Judge thereof may from time to time remove any such receiver, and on the death, resignation, or removal of any such receiver may appoint some other person in his place.

(3) Such receiver shall be entitled to receive the whole or such competent part of the rates, debts, funds, rents, or other property of the Minister as aforesaid, and to be paid such commission as remuneration for his services as the Supreme Court or a Judge thereof may think fit.

140. Every such receiver shall hold all moneys received by him, after payment of costs and expenses of collection and of his commission, in trust for the purpose of paying to all holders of debentures issued by the Minister of any moneys secured thereby and owing to them according to their respective priorities and subject thereto for the Minister.

Application of assets by receiver. See No. 14 of 1904, s. 145.

PART X.—ACCOUNTS AND AUDIT.

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

Accounts. See No. 35 of 1906, s. 11.

(a) Of all moneys received and paid by him, and of all moneys owing to and by him under this Act, and of the several purposes for which such moneys are received and paid, and owing; and

(b) Of all the assets and liabilities of the Minister under this Act.

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

Books may be inspected.

Accounts to
be balanced.

143. The Minister shall cause his accounts to be balanced every year on the thirtieth day of June.

Accounts to
be audited.

144. (1) The Minister shall cause a full and true balance sheet of the assets and liabilities, together with a revenue account or profit and loss account for each year, and such other statements as may be necessary to be compiled from the books and submitted to the Auditor General for audit.

(2) The Auditor General shall certify that he has found the accounts in order, or otherwise, as the case may be ; that, in his opinion, the accounts are properly drawn up so as to present a true and correct view of the transactions for the period under review as shown by the books ; that all items of receipts and payments and all known liabilities and assets have been brought into account, and that the value of all assets has in all cases been fairly stated.

(3) The Auditor General may express an opinion upon the necessity of reserve or renewal funds of amounts set aside to meet depreciation and obsolescence of plant, and of the adequacy of such amounts.

(4) The Auditor General shall, in respect to such accounts have all the powers conferred on him by the Audit Act, 1904*, and any amendments thereof.

Accounts
and auditor's
report to be
laid before
Parliament.
See No. 35 of
1905, s. 14.

145. Copies of such accounts, together with the Auditor General's report thereon, shall be laid before both Houses of Parliament annually.

PART XI.—BY-LAWS.

Minister
may make
by-laws.
See No. 14 of
1904, s. 158.
Regulating
business.

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

(1) The general conduct of his business and proceedings, and the control, supervision, guidance, and duties of his officers and servants.

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

Water
reserves.

* Now the Audit Act, 1904-1950.

- (3) Regulating and controlling the use by any person of artesian bores sunk after the commencement of this Act. Regulating bores.
- (4) The due management and use of the water works, sewerage and drainage works, and other property of the Minister, and of any water under his jurisdiction or authority. Managing works.
- (5) Protecting and preventing and remedying the waste, misuse, undue consumption, fouling, or contamination of water contained in or supplied from the water works or otherwise under the control of the Minister. Preventing waste, etc.
- (6) The construction, maintenance, cleansing, repair, management, and use of the water-works, sewerage works, sewers, drains, pipes, and other property of the Minister. Construction and use of works.
- (7) Protecting the water works, sewerage works, sewers, drains, pipes, and fittings from trespass and injury. Protecting water and works.
- (8) Regulating the purposes for which any pipes, drains, or sewers shall be used or applied. The use of pipes, drains, etc.
- (9) Regulating the dimensions, material, form, construction, and arrangement of, and the maintenance or alteration of ventilators for pipes, drains, or sewers. Ventilators.
- (10) Regulating the disinfection and cleansing of or otherwise dealing with any substance or matter before the discharge thereof into any drain or sewer. Disinfection.
- (11) Prescribing the fees payable for tapping the mains or connecting with the sewers of the Minister. Fees for tapping mains or connecting with sewers.
- (12) Making, levying, and collecting water rates, sewerage and drainage rates, and fixing a minimum rate to be paid in respect of land under a prescribed value. Rates.
- (13) Prescribing the quantity of water which a consumer may take in respect of any rates paid for any given period. Quantity of water.

Domestic purposes.

(14) Prescribing the purposes which shall be and shall not be domestic purposes for the use of water.

Scale of charges for water supplied by measure.

(15) 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.

Specifying purposes.

(16) 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.

Prescribing quantity for specified purposes.

(17) Prescribing the quantity of water a consumer may take or consume for any specified purposes; and the price to be paid for water supplied for any specified purposes.

Fixing levels of water

(18) Fixing the level beyond which water supplied from the works may not be allowed to rise at any particular place within the Area or any district.

Repair of fittings.

(19) Compelling persons using water supplied by the Minister to keep their pipes and fittings in proper repair.

Prohibiting alteration of fittings.

(20) Prohibiting any alteration of or interference with any meter, pipes, drain, or fittings, without the consent of or notice to the Minister; and prohibiting the sale by any person to whom water is supplied by the Minister of water supplied, except with the authority, in writing of the Minister.

Enabling Minister to repair fittings at cost of consumer.

(21) Enabling the Minister 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.

Arrangement of fittings.

(22) Prohibiting any mode of arrangement, and the use of any fittings which may, in the opinion of the Minister, cause or tend to cause waste, misuse, undue consumption, fouling, or contamination of the water.

- (23) The inspection of all pipes, sewers, drains, fittings, and meters. Inspection.
- (24) Regulating the examination and licensing of persons to perform work in connection with meters, pipes, sewers, drains, and fittings; the cancelling of such licenses, and prohibiting any other than licensed persons from fixing, altering, or repairing meters, pipes, sewers, drains, or fittings connected with the works of the Minister. Licensing plumbers.
- (25) Prescribing fees or charges for or in respect of licenses. Fees.
- (26) Prescribing the rent to be paid by persons supplied with water for meters provided by the Minister. Meter rent.
- (27) Prescribing forms to be used for the purposes of this Act, and modifying any of the forms contained in the Schedules. Forms.
- (28) And for any other purposes relating to the administration of this Act and the exercise of the powers vested in the Minister. Generally.

147. Every by-law—

- (1) May impose a penalty not exceeding twenty pounds for breach thereof, and, in the case of a continuing breach, a further penalty not exceeding five pounds for each day the offence continues after notice thereof has been given by or on behalf of the Minister to the offender; and Penalties for breach of by-laws. See No. 14 of 1904, s. 159.
- (2) May provide that, in addition to the penalty, any expense incurred by the Minister in consequence of the breach of such by-law shall be paid by the person committing such breach.

148. (1) Every by-law shall, upon approval by the Governor and publication in the *Government Gazette*, have the force of law, and shall be laid before Parliament within fourteen days* after such By-laws to be approved by the Governor and published in "Government Gazette."

* See the Interpretation Act, 1918-1948, s. 36.

See No. 14 of 1904, s. 160.

publication if Parliament is then in session, and if not, then within fourteen days after the commencement of the next ensuing session.

(2) In any proceeding in any Court the production of the *Government Gazette* containing any by-law purporting to have been made and approved under this Act shall be conclusive evidence of such by-law having been so made and approved.

PART XII.—GENERAL PROVISIONS.

Notices.
See No. 14 of
1904, s. 161.

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

Notices and
demands,
how served.
See No. 14 of
1904, s. 162.

150. (1) Any notice or demand required by this Act to be given to or made upon any person may be 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 pre-paid letter addressed to such person at his usual or last known place of abode.

When
deemed to
have been
given.

(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 name
of owner or
occupier
unknown.

(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 Minister, it shall not be necessary to name such owner or occupier, and such notice or demand may be served by placing it on some conspicuous part of the land of such owner or occupier, and by publishing it three times, at intervals of not less than a week between any two publications, in a newspaper usually circulating in the District.

Services on
corporations.

(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 ad-

dressed in each case to the corporation, company, or partnership at the principal office or place of business thereof in the State.

151. 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. See No. 14 of 1904, s. 163.

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

Notices may be authenticated by signature of Minister. See No. 14 of 1904, s. 164.

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

Saving of civil remedy. See No. 14 of 1904, s. 166.

154. When any water supplied under this Act has been wasted, misused, or unduly consumed, the Minister 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 Minister may possess, and to the liability to any penalty which such person has incurred.

Recovery of value of water misused, etc. See No. 14 of 1904, s. 167.

155. Any money paid by an occupier, which as between the occupier and owner is, under the provisions of this Act or the by-laws, payable by the owner, may be recovered by the occupier from the owner by action in any Court of competent jurisdiction, or may be set off against any rent payable by the occupier to the owner.

Contribution between owner and occupier.

156. Every person who obstructs the Minister, or any person employed by the Minister, in the performance of any act or thing which they are respectively authorised or required to do in the execution of this Act or any by-law made thereunder, shall be liable to a penalty not exceeding twenty pounds.

Obstructing Minister or officers in performance of duty. See No. 14 of 1904, s. 168.

Penalty for refusing to give up possession of works.
See No. 14 of 1904, s. 169.

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

Offenders may be arrested.
See No. 14 of 1904, s. 170.

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

Summary proceedings for offences and recovery of penalties.
See No. 14 of 1904, s. 171.

159. 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 Minister or any officer or servant of the Minister.

Application of penalties.
See No. 14 of 1904, s. 172.

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

Minister may be represented by officer.
See No. 14 of 1904, s. 173.

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

Actions against the Minister or officers.
See No. 14 of 1904, s. 174.

162. (1) All actions to be brought against the Minister or any person, for anything done or purporting to have been done under this Act shall be commenced within twelve months after the act complained of was committed.

(2) Notice, in writing, of the intended action, and the cause thereof, shall be served upon the Minister, or the person against whom the action is to be brought, at least one month before any process is issued, with the name and place of abode of the party intending to bring such action.

* Now the Justices Act, 1902-1948.

(3) If—

- (a) Tender of sufficient amends has been made before such process is issued ; or
- (b) The matter complained of appears to have been done under the authority and in the execution of this Act ; or
- (c) Such action is brought after the time limited for bringing the same ; or
- (d) Such notice is not given as aforesaid, judgment shall be given for the defendant with costs.

163. Any person appointed under the hand of the Minister may, for the purposes of this Act, search the public registers of the office of Titles and Registry of Deeds, or any office of the Department of Lands, without payment of any fee.

Books of Land Titles and other offices may be searched without fee. See No. 14 of 1904, s. 175.

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

Property of Minister not to be taxed. See No. 14 of 1904, s. 176.

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

Proof of ownership or occupancy. See No. 14 of 1904, s. 177.

- (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 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
 - (b) The Registrar of Deeds, or his deputy, that any person appears from any memorial of registra-

* Now the Transfer of Land Act, 1893-1950.

tion of any deed, conveyance, or other instrument to be the owner of any land ; or

- (c) The Under Secretary for Lands that any person is registered in the Department of Lands as the owner, 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.

Power to suspend certain provisions of local government Acts.
See No. 14 of 1904, s. 179.

166. The Governor may, in his discretion, by Order in Council suspend the operation within the Area, or any District, of the provisions relating to water supply or sewerage of any local government Act.

SCHEDULES.

Section 4.

First Schedule.

Date.	Title.	Extent of Repeal.
No. 14 of 1904	The Metropolitan Water and Sewerage Act, 1904	The whole.
No. 31 of 1904	The Metropolitan Waterworks Amendment Act, 1904.	The whole.
No. 5 of 1905	The Metropolitan Waterworks Amendment Act, 1905.	Sections 3, 4, 5, and 6.
No. 25 of 1905	The Metropolitan Waterworks Amendment Act, 1905 (No. 2).	The whole.

Second Schedule.*

Section 6.

THE METROPOLITAN WATER, SEWERAGE, AND
DRAINAGE AREA.

Perth District.

Bounded by lines starting from a point on the seashore situated West from the North-West corner of Perthshire Location AW, and extending North-Easterly to the North-West corner of Location AP; thence Easterly partly along the South boundary of Location Au to the North-West corner of Swan Location 690, and from thence North-Easterly to the North corner of Swan Location Z; thence North-Easterly through Location S28 to the North-West corner of B Reserve 943 (Perth Sanitary Depot); thence Easterly along its Northern boundary to the South-West boundary of Swan Location X; thence South-Easterly along the said boundary to a point about 10 chains South-Easterly from the North corner of Swan Location Y, and from thence in an East-North-Easterly direction to a point on the Eastern side of Location T and about 160 chains from the North bank of the Swan River; thence along the said boundary to the centre of the Swan River and along the said centre to a point opposite the North-Eastern boundary of Location 28; thence South-Easterly along the said boundary for a distance of 70 chains; thence South-Westerly to the North corner of Canning Location 2; thence South-Easterly along part of that Location's North-East boundary to the centre of Brookman Road; thence South-West along the centre of Brookman Road to the most Northerly corner of the Queen's Park Municipality; thence South-Easterly following the boundaries of the said Municipality to the left bank of the Canning River; thence along its left bank to its intersection with the Western end of the lower Canning Bridge; thence across the Bridge to the right bank of the Canning River; thence Northerly along the foreshore to the Narrows; thence by a line bearing North to Point Lewis; thence South-Westerly along the foreshore to the South-East corner of Location 90; thence Westerly to the centre of the Perth-Fremantle Road; thence South-Westerly along the centre of the Perth-Fremantle Road to a point South of the Eastern boundary of Location 728; thence Northerly to the South-Eastern corner of Location 728 and along the Eastern boundary to the centre of Aberdare Street; thence Westerly along the centre of Aberdare Street to the Eastern Railway; thence North-Easterly along the Railway to a point due East from the point of commencement; thence Westerly to the point of commencement.

* See Orders in Council—

Dated 27th May, 1914, published in *Gazette* on 29th May, 1914;
 Dated 16th December, 1914, published in *Gazette* on 18th December, 1914;
 Dated 13th April, 1921, published in *Gazette* on 27th May, 1921;
 Dated 21st April, 1926, published in *Gazette* on 30th April, 1926;
 Dated 20th June, 1945, published in *Gazette* on 29th June, 1945;
 Dated 2nd July, 1948, published in *Gazette* on 16th July, 1948;
 Dated 2nd September, 1948, published in *Gazette* on 10th September, 1948;
 Dated 27th July, 1949, published in *Gazette* on 5th August, 1949;
 Dated 8th September, 1950, published in *Gazette* on 22nd September, 1950;
 Dated 12th December, 1952, published in *Gazette* on 19th December, 1952.

Fremantle District.

Bounded by lines starting from a point at the North-West corner of the North Fremantle Municipal boundary ; thence Easterly to a point on the Eastern bank of the Swan River opposite Chidley Point ; thence Southerly and Westerly along the foreshore to a point situated North from the North-East corner of Fremantle Suburban Lot 49 ; thence South to the North boundary of Cockburn Sound Location 10 ; thence West along part of that location's North boundary to its North-West corner ; thence South partly along the West boundaries of Locations 10, 3, and 84 to the South boundary of Location 109 ; thence West to the seashore ; thence North along the seashore to the starting point, and excluding the Fremantle Jetties and the North and South Moles.

Claremont District.

Bounded by lines starting from a point on the seashore situated West from the North-West corner of Perthshire Location AW, and extending Easterly to the Eastern Railway ; thence South-West along that Railway to the centre of Aberdare Street ; thence Easterly along the centre of that road to a point opposite the Eastern boundary of Location 728 ; thence Southerly along the boundary of that location and a line to the centre of the Perth-Fremantle Road ; thence North-Easterly along the centre of that road to a point opposite the Southern boundary of Location 90 ; thence Easterly to the foreshore ; thence generally Southerly and Westerly along the foreshore to Chidley Point ; thence due West to the seashore ; thence Northerly along the foreshore to the point of commencement.

Guildford District.

Bounded by lines starting from a point on the North-Easterly boundary of Location T, about 160 chains from the North bank of the Swan River ; thence North-Easterly to the North-West corner of Location Q2 ; thence North to the North boundary of Location O1 ; thence East along part of that Location's North boundary to the centre of the Swan River ; thence North-Easterly along the said centre of the River to a point situate West from the South-West corner of Location 14a ; thence East partly along that Location's South boundary to its South-East corner ; thence South to the centre of the Smith's Mill Branch of the Eastern Railway ; thence South-Westerly along the said centre of the Railway to a point situate North from the North-West corner of Reserve No. 2101 ; thence South to the South boundary of Location 16 ; thence West along part of that Location's South boundary and onwards to the East corner of Location 8 ; thence South-Westerly to the North-Eastern boundary of Location 28 ; thence North-Westerly along portion of the said boundary to the centre of the Swan River ; thence South-Westerly along the centre of the River to a point opposite the North-Eastern boundary of Location T ; and thence North-Westerly along part of the said boundary to the point of commencement.

may be] and interest thereon in respect of allotment No. , of section [or portion] No. , situated in street [or road or other situation setting out a sufficient description of the land to identify it.]

Payment of the said sum is hereby demanded.

If the said sum is not paid within three months from the date of this notice the Minister will take possession of and lease the said land, under the provisions of the Metropolitan Water Supply, Sewerage and Drainage Act, 1909-1951.

Minister.

Office of the Minister, Perth, , 19 .

Eighth Schedule.

Section 114.

THE METROPOLITAN WATER SUPPLY, SEWERAGE, AND DRAINAGE ACT, 1909-1951.

.....District.

Notice.

To or the owner of, or other person or persons interested in allotment No. of section [or portion] No. [here state situation of land].

You are hereby informed that the sum of pounds shillings and pence is now due and unpaid for water rates [or for water supplied or sewerage rates], [as the case may be] and interest thereon, in respect of the abovenamed land, in arrear for a period of three years and upwards.

Payment of the said sum is hereby demanded.

In default of compliance with this demand, the Minister will, after the lapse of three months from the date hereof, take possession of and deal with the said land as provided by the provisions of the above-mentioned Act.

Minister of Water Supply, Sewerage, and Drainage.

Office of the Minister, Perth, , 19 .

Ninth Schedule.

Section 114.

THE METROPOLITAN WATER SUPPLY, SEWERAGE, AND DRAINAGE ACT, 1909-1951.

.....District.

Notice Under Section 138.

Possession has been taken of this land, being allotment No. of section [or portion] No. [here describe situation of land],

by the Minister of Water Supply, Sewerage, and Drainage in accordance with the provisions of the abovementioned Act, and it is to be let on lease.

Minister.

Office of the Minister,
 _____, 19 .

Section 118.

Tenth Schedule.

THE METROPOLITAN WATER SUPPLY, SEWERAGE AND DRAINAGE ACT, 1909-1951.

.....District.

Certificate of Rates Unpaid.

This is to certify that, under the provisions of the Metropolitan Water Supply, Sewerage, and Drainage Act, 1909-1951, the sum of _____ pounds _____ shillings and _____ pence is now due and unpaid by [*full name, occupation, and address, if known*], as the occupier [*or owner, or, if the name of the owner is not known, by "the owner"*] of that piece of land whereof _____ is the registered proprietor, situated in _____, and described in certificate of title [*or Crown Grant*] Volume _____, Folio _____, containing _____ acres _____ roods and _____ perches, more or less, being arrears of water rates [*or as the case may be*] and interest due in respect of such land. You are required to publish forthwith the notice prescribed by the abovementioned Act, and after the expiration of three months from the date of such notice, unless you receive from me a certificate that the amount abovementioned and all rates accrued due on the land in the meantime, and all expenses incurred, have been paid, you are required to issue your warrant of execution against the said land for the recovery of the said sums of money.

And you are also required to cause a like notice to be served on the following persons who, upon search at the Office of Titles and Registry of Deeds, appear to have an estate or interest in the land :—

_____ of _____
 of _____
 Dated at _____ this _____ day of _____, 19 .
 Minister.

To the Clerk of the Local Court, at _____

Section 118.

Eleventh Schedule.

THE METROPOLITAN WATER SUPPLY, SEWERAGE, AND DRAINAGE ACT, 1909-1951.

Notice of Sale.

Whereas the Minister of Water Supply, Sewerage, and Drainage has certified that under the provisions of the Metropolitan Water Supply,

Sewerage, and Drainage Act, 1909-1951, the sum of _____ pounds
 shillings and _____ pence is now due and unpaid
 by [full name, occupation, and address, if known], as the occupier [or
 owner or by the "owner"] of that piece of land whereof
 is the registered proprietor, situated in _____ and described
 in certificate of title [or Crown Grant] Volume _____, Folio _____,
 containing _____ acres _____ roods and _____ perches, more or
 less, being arrears of water rates [or as the case may be] and interest
 due to such Minister in respect of such land; and whereas such Board
 has required me, after the expiration of three months from the date
 hereof, to issue my warrant of execution against such land unless the
 moneys hereinafter mentioned are sooner paid: This is to give notice
 that in pursuance of such certificate I shall issue my warrant of execu-
 tion accordingly at the expiration of three months from the date
 hereof unless the abovementioned sum and all rates accrued due on the
 land from the _____ day of _____, 19 _____ [date of
 certificate], and all expenses incurred are sooner paid.

Dated at _____ this _____ day of _____, 19 _____
 C.D.,

Clerk of the Local Court at

Twelfth Schedule.

Section 119.

THE METROPOLITAN WATER SUPPLY, SEWERAGE AND
 DRAINAGE ACT, 1909-1951.

Warrant of Execution.

In the Local Court of }
 Western Australia. }

Held at _____ No. of Warrant _____ of 19 _____

Whereas under the provisions of the Metropolitan Water Supply,
 Sewerage, and Drainage Act, 1909-1951, the Minister of Water Supply,
 Sewerage, and Drainage has certified that the sum of _____ pounds
 shillings and _____ pence is now due and unpaid
 by _____ of _____, as the owner [or occupier] of that
 piece of land whereof _____ is the registered proprietor, situated
 at _____ of _____, and described in the certificate of
 title [or Crown Grant], Volume _____, Folio _____, containing
 _____ acres _____ roods and _____ perches, more or less, being
 arrears of rates and interest in respect of such land, and other expenses
 and payments due to the said Board as per particulars hereinafter
 set out: And whereas the Notice of Sale required to be published
 under the said Act was published in the *Government Gazette* on the
 day of _____, 19 _____, and in the _____ news-
 paper on the _____ day of _____, 19 _____: These are
 therefore to require and order you forthwith to make and levy by
 sale of the said land the sum stated at the foot of this warrant, and to

Metropolitan Water Supply, etc.

pay what you shall have so levied to the Clerk of this Court, and make return of what you have done under this warrant immediately upon the execution hereof.

Given under the Seal of the Court this day of
19 .

By the Court,

C.D.,
Clerk of the Court.

To the Bailiff of the said Court.

Amount of Arrears of Water Rates [*or as the case
may be*] and Interest before Notice of Sale

Amount of Arrears and Water Rates [*or as the case
may be*] and Interest accrued since Notice of Sale

Expenses other than Execution Expenses

£ : :

Execution Expenses

Total Amount to be Levied

£ : :

Hours of attendance at the office of the Local Court from 9 a.m. till 4 p.m., except on Saturdays, when the office will be closed at noon.

Section 130.

Thirteenth Schedule.

**THE METROPOLITAN WATER SUPPLY, SEWERAGE, AND
DRAINAGE ACT, 1909-1951.**

No..... Debenture £.....

Issued by the Minister of Water Supply, Sewerage, and
Drainage.

Transferable by Delivery.

This debenture was issued by the Minister of Water Supply, Sewerage, and Drainage, in pursuance of a notice published in the *Western Australian Government Gazette* of the day of in the year and is to secure to the bearer a principal sum of £ payable at on the day of in the year . Interest at the rate of £ per centum per annum on such principal sum in the meanwhile is payable by equal half-yearly payments on the day of and the day of , and a coupon is annexed for each payment, which entitles the bearer of such coupon thereto.

Such principal sum and interest are payable at _____ and are charged in accordance with the provisions of the said Act upon the works constructed by or vested in the Minister under the said Act and the revenues of the Minister.

£ _____ per cent. on the amount of the loan will be invested every year in accordance with the said Act to form a sinking fund.

Dated this _____ day of _____ 19 .

[L.S.]

Minister.

