

WESTERN AUSTRALIA.

**METROPOLITAN WATER SUPPLY, SEWERAGE,
AND DRAINAGE ACT, 1909-1969.**

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Approved for reprint, 21st November, 1969.

WESTERN AUSTRALIA.

METROPOLITAN WATER SUPPLY, SEWERAGE, AND DRAINAGE.

No. 43 of 1909.¹

(Affected by Acts Nos. 67 of 1912; No. 26 of 1932; No. 62 of 1947;
No. 8 of 1950 and No. 58 of 1966.)

[As amended by Acts:

No. 8 of 1925 assented to 24/9/25;
No. 30 of 1925² assented to 16/12/25;
No. 2 of 1941 assented to 25/9/41;
No. 13 of 1951 assented to 20/11/51;
No. 41 of 1951³ assented to 20/12/51;
No. 73 of 1954⁴ assented to 14/1/55;
No. 33 of 1955 assented to 28/11/55;
No. 27 of 1956 assented to 29/11/56;
No. 71 of 1960⁵ assented to 5/12/60;
No. 75 of 1962 assented to 30/11/62;
No. 39 of 1963⁶ assented to 25/11/63;
No. 113 of 1965⁷ assented to 21/12/65;
No. 14 of 1967⁸ assented to 20/10/67;
No. 14 of 1968 assented to 8/10/68;
No. 8 of 1969 assented to 6/5/69;

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

**AN ACT to establish the Metropolitan Water Supply,
Sewerage, and Drainage Board; to constitute
the Metropolitan Water, Sewerage, and Drain-
age Area; to establish the method of control,
and for other purposes incidental thereto.**

Amended by
No. 39 of
1963, s. 3.

[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-
1969.*

Short title.
Amended by
No. 8 of
1969, s. 1.

¹ 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.

² Came into operation 1st July, 1926. See *Gazette* 28/5/26.

³ Came into operation 4th April, 1952. See *Gazette* 4/4/52.

⁴ Came into operation 1st March, 1955. See *Gazette* 18/2/55.

⁵ Came into operation, with exception of sections 3, 4, 5, 13, 14 and 15, 20th
January, 1961; see *Gazette* 20/1/61. Sections 3, 4, 5, 13, 14 and 15 came
into operation 1st July, 1961; see *Gazette* 16/6/61.

⁶ Came into operation 1st July, 1964. See *Gazette* 13/3/64.

⁷ Came into operation 14th February, 1966. See s. 2 (2) of Decimal Currency
Act, 1965.

⁸ Came into operation 1st January, 1968. See *Gazette* 1/12/67, p. 3303.

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and Drainage.*

Commence-
ment.
Amended by
No. 14 of
1967, s. 3.

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.¹

Division.
Amended by
No. 33 of
1955, s. 2;
No. 39 of
1963, s. 4;
No. 14 of
1967, s. 4.

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

PART I.—PRELIMINARY, ss. 1-5.

PART II.—THE AREA, ss. 6, 7.

PART III.—ADMINISTRATION, ss. 8-12 I.

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.—SEWERAGE, ss. 58-71.

PART VIIA.—METROPOLITAN MAIN DRAINAGE, ss. 71A-71E.

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 and Charges*—

(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.

¹ See footnote¹ on page 1.

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

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.

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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.

Inter-
pretation.
Amended by
No. 32 of
1955, s. 3.
No. 39 of
1963, s. 5;
No. 14 of
1967, s. 5.

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;

“Authorised”—Authorised by the Board;

“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 Board in connection with any water supply.

“District” in relation to local authorities—A Municipal 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;

“Fixtures” means all apparatus that may be attached to the plumbing or drainage system of a property for the collection or retention of any wastes or waste waters for ultimate discharge into the sewerage system and includes closet pans, urinals, baths, sinks, basins and troughs connected with the sewerage system;

“Land”—Messuages, lands, tenements, and hereditaments of any tenure, and the houses, buildings, and structures, thereon;

“Local Authority”—The Council of a Municipality or any Local Board of Health;

“Local Government Act”—Any Act whereby a local authority is constituted;

“Member” means a member of the Board and includes an acting member of the Board;

“metropolitan main drain” means the whole or portion of a pipe, conduit, channel, stream, or watercourse which is wholly or partly natural or artificial, which is wholly or partly on or below the surface of the ground, which has been, is being, or is intended to be, provided, constructed, adapted, or used for drainage of surplus water, and which is constituted a metropolitan main drain under this Act.

Cf. s. 71C
as to
constitution
of metro-
politan
main drains.

“metropolitan main drainage works” means metropolitan main drains and things used in connection with metropolitan main drains, including treatment works, pumps, pumping stations, machinery, and fittings, and land held, acquired, or used for or in connection with metropolitan main drains, by the Board for the purposes of this Act relating to drainage of surplus water;

“Minister”—The Minister of Water Supply, Sewerage and Drainage constituted a body

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corporate pursuant to the Water Supply, Sewerage, and Drainage Act, 1912;

“Occupier”—The person in actual occupation of land, or if there is no person in actual occupation, the person entitled to possession of the land;

“Owner”—The person other than Her Majesty who for the time being is entitled to receive the rent of land, whether on his own account or as trustee, attorney, or agent for any other person, or who would be entitled to receive the rent if the land were let at a rent;

“Pipe”—A main, reticulation, or service pipe used for or in connection with the supply of water;

“Ratepayer”—A person named in the books of the Board as a person liable to pay rates;

“Reservoir”—A reservoir, dam, tank, cistern, or well;

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

“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 Board 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;
- “Watercourse”—The bed of a river, creek, or other channel in which water flows either ordinarily, intermittently, or occasionally;
- “surplus water” means storm-water, surface-water, and ground-water, which unless removed by drainage, would accumulate to the detriment or disadvantage of persons in the area, or part of the area;
- “the Board” means the Metropolitan Water Supply, Sewerage, and Drainage Board established under this Act;
- “the Chairman” means the Chairman of the Board and includes an acting Chairman of the Board;
- “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 Board for the purposes of this Act in relation to water supply;
- “works” means waterworks, sewerage works, and metropolitan main drainage works.

PART II.—THE AREA.

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) [*Repealed by No. 14 of 1967, s.7.*]

(3) The boundaries of the Area shall be as defined by Order in Council.

Heading.
Amended by
No. 14 of
1967, s. 6.
Constitution
of Area.
Amended by
No. 33 of
1955, s. 4;
No. 14 of
1967, s. 7.

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(4) The Governor may, by Order in Council, divide the respective parts of the Area, which parts are served by a metropolitan main drain, into metropolitan main drainage districts, and define the boundaries of such districts.

Power to alter boundaries. Amended by No. 33 of 1955, s. 5; No. 14 of 1967, s. 8.

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

- (a) alter or extend the boundaries of the Area or of any metropolitan main drainage district;
- (b) re-divide the Area and increase or reduce the number of the metropolitan main drainage districts, and re-define the boundaries of the metropolitan main drainage districts.

PART III.—ADMINISTRATION.

Establishment of Metropolitan Water Supply, Sewerage, and Drainage Board. Board a body corporate. Substituted by No. 39 of 1963, s. 6. Amended by No. 113 of 1965, s. 4; No. 14 of 1967, s. 9.

8. (1) For the purposes of this Act there shall be a Board to be known as the "Metropolitan Water Supply, Sewerage, and Drainage Board".

(2) The Board—

- (a) is a body corporate;
- (b) shall have a seal;
- (c) has power to acquire, hold, lease and dispose of real and personal property for the purposes of this Act, but shall not without the approval of the Minister—
 - (i) acquire any property the cost of acquisition of which exceeds one hundred thousand dollars;
 - (ii) in any manner dispose of any property having an original or book value exceeding that amount; or
 - (iii) enter any contract the consideration of which exceeds that amount;

- (d) may sue and be sued in its corporate name;
- (e) is capable of doing and suffering all that bodies corporate may do and suffer;
- (f) has, subject to the Minister, the general administration of this Act; and
- (g) is an agent of the Crown in right of the State.

(3) All courts, Judges and persons acting judicially shall take judicial notice of the seal of the Board affixed to a document and shall presume that it has been duly so affixed. Judicial notice.

(4) The Board shall consist of seven members, of whom— Constitution of Board.

- (a) one shall, on the nomination of the Governor, be appointed Chairman;
- (b) one shall be the General Manager for the time being of the Board;
- (c) one shall be an engineer who is a corporate member of either the Institution of Engineers Australia, or the Institution of Civil Engineers, London;
- (d) one shall be—
 - (i) the Under-Treasurer of the State for the time being; or
 - (ii) an officer of the Treasury appointed on the nomination of the Under-Treasurer;
- (e) one shall be a person, appointed on the nomination of the Minister, from a panel of the names of three persons eligible and willing to act as members submitted to the Minister for the purpose, by the Council of the City of Perth and who shall represent the ratepayers; and
- (f) two shall be persons, appointed on the nomination of the Minister, from a panel of the names of six persons eligible and

willing to act as members, submitted to the Minister for the purpose, by the body known as the Local Government Association of Western Australia, each of whom—

- (i) shall represent the ratepayers; and
- (ii) shall, at the time he is appointed or re-appointed, be either a Mayor, President or Councillor of a Local Authority, whose municipal district or part thereof is within the Area.

Power of Governor to appoint members.

(5) Each member shall be appointed by the Governor, but is not, in respect of his office as such, subject to the provisions of the Public Service Act, 1904.

Power of Governor to appoint in default by Local Authority.

(6) Where the Council referred to in paragraph (e) of subsection (4) of this section, or the body referred to in paragraph (f) of that subsection, fails to submit to the Minister the panel of names required to be submitted to the Minister for the purposes of that subsection, within twenty-one days after the receipt by it of a written request from the Minister so to do, the Governor may appoint a person or persons to the office or offices of member in respect of which no such panel has been so submitted.

Term of office of members.

(7) The Chairman shall be appointed for a term not exceeding seven years and each other member shall be appointed for a term not exceeding three years.

Member eligible for re-appointment.
Vacancy not to invalidate functions of Board.

(8) A member is eligible for re-appointment.

(9) The performance or exercise of the functions, powers, duties or liabilities of the Board is not affected by reason only of there being a vacancy in the office of a member.

Acting members.
Substituted by No. 39 of 1963, s. 7.

9. (1) Where a member is unable to attend meetings of the Board, whether on account of illness or otherwise, the Minister may appoint a person to be an acting member during the inability of that

member, and the person so appointed has all the powers and functions of a member.

(2) Where the Chairman is unable to attend meetings of the Board, whether on account of illness or otherwise, the Minister may appoint a member to be the acting chairman of the Board during the inability of the Chairman.

(3) The appointment of a person as an acting member or of a member as acting chairman may be terminated at any time by the Minister.

10. (1) A member, other than an acting member, shall be paid such remuneration and allowances as the Governor determines.

Remuneration of members. Substituted by No. 39 of 1963, s. 8.

(2) An acting member shall be paid such remuneration and allowances as the Minister determines.

11. The Governor may grant leave of absence to a member upon such terms and conditions as to remuneration or otherwise as the Governor from time to time determines.

Leave of absence. Substituted by No. 39 of 1963, s. 9.

12. The Governor may terminate the appointment of a member for inability, inefficiency or misbehaviour.

Dismissal of members. Substituted by No. 39 of 1963, s. 10.

12A. A member may resign his office of member by writing under his hand addressed to the Governor.

Resignation of member. Added by No. 39 of 1963, s. 11.

12B. (1) If a member—

Vacation of office of member. Added by No. 39 of 1963, s. 12.

(a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of the remuneration granted to him under this Act for their benefit;

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- (b) has his appointment terminated by the Governor in pursuance of this Act;
- (c) becomes of unsound mind;
- (d) resigns his office by writing under his hand addressed to the Governor and his resignation is accepted by the Governor;
- (e) is absent, except on leave granted by the Minister, from three consecutive meetings of the Board; or
- (f) in any way, otherwise than as a member and in common with other members of an incorporated company consisting of not less than fifty-one persons—
 - (i) becomes concerned or interested, without the approval of the Governor, in any contract or agreement entered into by or on behalf of the Board;
 - (ii) participates or claims to participate in the profit of any such contract or agreement or in any benefit or emolument arising from such a contract or agreement,

the Governor shall, by notice in the *Gazette*, declare that the office of the member is vacant, and thereupon the office shall be deemed to be vacant.

(2) A member shall not be deemed—

- (a) to become concerned or interested in such a contract or agreement as is referred to in paragraph (f) of subsection (1) of this section; or
 - (b) to participate, or claim to participate, in the profit of, or in any benefit or emolument arising from such a contract or agreement,
- by reason of his—
- (c) entering into, or obtaining any benefit arising from a contract or agreement between the Board and himself for any

services or water supplied by the Board under this Act to the member as a rate-payer;

- (d) receiving compensation for, or transferring or conveying to the Board, any land compulsorily acquired by it and for which compensation is determined by a compensation court or by arbitration pursuant to any Act authorising the acquisition; or
- (e) receiving compensation or damages that the Board is liable to make to him for damages sustained by him in consequence of the exercise by the Board of the powers conferred on it by this Act, where the amount of the compensation or damages is determined by a court or by arbitration.

12C. On the occurrence of any vacancy in an office of member, a person eligible to be appointed to that office under the provisions of this Act shall, in accordance with those provisions, be appointed by the Governor to fill the vacancy, and a person so appointed holds office, subject to those provisions, for the remainder of the term of office of the person in whose place he is appointed.

Filling of vacancies in membership. Added by No. 39 of 1963, s. 13.

12D. (1) The Board shall hold such meetings as are necessary for the performance of its functions.

Meetings of Board. Added by No. 39 of 1963, s. 14.

(2) The Minister or the Chairman may at any time convene a meeting of the Board.

(3) The Chairman shall preside at all meetings of the Board at which he is present.

(4) When the Chairman and the acting chairman are absent from a meeting of the Board, the members shall appoint one of their number to preside at that meeting.

(5) At a meeting of the Board—

- (a) five members form a quorum; and

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- (b) a question arising at the meeting shall be determined by a majority of the votes of the members present.

Delegation.
Added by
No. 39 of
1963, s. 15.

12E. (1) The Board may, in relation to any particular matter or class of matters or to a particular place, by writing under its seal, delegate to any number of members as a committee, to any member or any officer of the Board, all or any of its powers under this Act, except this power of delegation, so that the delegated powers may be exercised by the delegate with respect to the matter or class of matters, or to the place specified in the instrument of delegation.

(2) A delegation under this section is revocable at will and the delegation does not prevent the exercise of any power by the Board.

Exemption
from
personal
liability.
Added by
No. 39 of
1963, s. 16.

12F. A person who is or has been a member, acting member or delegate of the Board, is not personally liable for anything done or omitted in good faith in, or in connection with, the exercise or purported exercise of any power conferred, or the carrying out of any duty imposed, on the Board by this Act.

Appointment
of officers.
Added by
No. 39 of
1963, s. 17.

12G. (1) For the purposes of enabling the Board to carry out its powers, functions, duties and liabilities under this Act, the Governor may, under the provisions of the Public Service Act, 1904, from time to time appoint—

- (a) a person to be General Manager of the Board, who shall be the Chief Executive Officer of the Board;
- (b) a person to be secretary of the Board; and
- (c) such other officers as the Governor thinks necessary for those purposes.

Temporary
and casual
employees.

(2) Subject to the provisions of any current relevant industrial award or agreement made under the Industrial Arbitration Act, 1912, the Board may

appoint and dismiss such temporary or casual employees as it thinks fit on such terms and conditions as the Board determines.

(3) The Board may, with the consent of the Minister administering any department of the Public Service of the State, for the purposes of this Act, co-opt the services, whether of an administrative technical or other nature, of any person employed in that department upon such terms as may be agreed between that Minister and the Board.

Power of Board to co-opt services.

(4) If a person appointed under section eight or subsection (1) of this section of this Act, or whose services are co-opted under this section, is an officer within the meaning of the Public Service Act, 1904, the appointment or co-opting of his services—

- (a) shall be without prejudice to the provisions of that Act and all other Acts applying to that person as such an officer; and
- (b) does not prejudice his existing and accruing rights as such under any of those Acts,

and for the purposes of determining those rights, his service with the Board under this Act shall be taken into account, as if it were service in the Public Service of the State.

12H. (1) The Board shall prepare and submit to the Minister as soon as practicable after the thirtieth day of June in each calendar year, but not later than the fourteenth day of November in that year, a report on the exercise and performance by the Board of its powers, functions, duties and liabilities under this Act during the twelve months ending on the last preceding thirtieth day of June.

Annual report of Board. Added by No. 39 of 1963, s. 18.

(2) The Minister shall lay the report of the Board before each House of Parliament within six sitting days of the House after the receipt of the report by the Minister.

12I. Subject to this Act, on the day on which the Metropolitan Water Supply, Sewerage, and Drainage Act Amendment Act, 1963, comes into operation—

Transition provisions and savings. Added by No. 39 of 1963, s. 19.

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- (a) all waterworks and works existing and all property of every kind that, immediately preceding that day, were vested in and were the property of the Minister of Water Supply, Sewerage and Drainage, for the purposes of this Act, shall by force of this section, without any conveyance, transfer or assignment, be transferred to and vested in the Board, subject to any debts, trusts and liabilities affecting them and shall be deemed to have been lawfully acquired or constructed under the authority of this Act;
- (b) all powers, functions, rights, exceptions, duties, obligations and remedies of that Minister under this Act, shall be discharged, preserved, vested in, carried on, continued and assumed completely and without any abatement or cessation in any respect whatever, by the Board;
- (c) all by-laws made under this Act and in force on that day shall continue in force until cancelled or varied by by-laws made by the Board under this Act;
- (d) all rates, charges, fees and moneys due, payable or leviable under this Act shall be paid to and may be received, levied and recovered by the Board;
- (e) all contracts made under the authority of this Act before that day have effect as contracts by and with the Board and may be enforced by and against the Board accordingly; and
- (f) all moneys due to the Board, whether for rates or otherwise, shall, for the purposes of the recovery thereof, be deemed to be moneys due to Her Majesty, and may be sued for and recovered by the Board.

"This Act"
includes
regulations.
See Act
No. 30 of
1918.

PART IV.—WATER RESERVES.

13. For the purposes of this Act, the Governor may, by proclamation from time to time—

Power of Governor to constitute etc., water reserves or catchment areas. Repealed and re-enacted by No. 14 of 1967, s. 10.

- (a) constitute and define the boundaries of any water reserve or catchment area and may vest the water reserve or catchment area in the Board;
- (b) alter the boundaries of any water reserve or catchment area;
- (c) describe the boundaries of a water reserve or catchment area as existing for the time being;
- (d) unite two or more water reserves or two or more catchment areas; and
- (e) abolish any water reserve or catchment area.

14. The Board 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 divert, intercept, and store water. Amended by No. 39 of 1963, s. 21.

15. The Board 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.

Power to take land. Amended by No. 39 of 1963, s. 22.

16. Any person who, without the authority of the Board, diverts water from any stream, watercourse, or source of supply within any water reserve or catchment area, 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 forty dollars for every day during which such supply of water shall be diverted or diminished by any act done by or by the authority of such person.

Penalty for diverting water. Amended by No. 39 of 1963, s. 23; No. 14 of 1967, s. 11.

Board may exercise powers of Local Board of Health. Amended by No. 39 of 1963, s. 24.

17. (1) For preventing the pollution of water within a water reserve or catchment area, the Board has 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.

(2) All the provisions of the Health Act, 1911, 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. [*Repealed by No. 39 of 1963, s. 25.*]

Board may construct works. Amended by No. 33 of 1955, s. 6; No. 39 of 1963, s. 26.

19. (1) Subject to the provisions of this Act, the Board has power to maintain, alter, and repair, and, with the approval of the Governor, to construct, provide, 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, or provided, or in course of being provided, by the Board under the authority of this Act, shall vest in and be the property of the Board.

Preliminaries to construction. Amended by No. 33 of 1955, s. 7; No. 39 of 1963, s. 27.

20. The Board shall, before undertaking the construction or provision of such works, except such reticulation works or other minor works as the Governor exempts, and is hereby authorised to 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 Board; and

- (b) Cause an advertisement to be published in the *Government Gazette*, and in one or more newspapers generally circulating in the area, specifying:—
- (i) a description of the proposed works;
 - (ii) the localities in which they will be constructed or provided;
 - (iii) the purposes for which they are to be constructed or provided, and the parts of the area which are intended to be served by the works;
 - (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.

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

Objections.
Amended by
No. 33 of
1955, s. 8;
No. 39 of
1963, s. 28.

(2) Every such objection shall be lodged with the Board 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 Board is satisfied—

Governor
may
authorise
construction
of works.

(a) That the provisions of this Act have been complied with;

Amended by
No. 33 of
1955, s. 9;
No. 39 of
1963, s. 29.

(b) That the revenue estimated to be derived from the proposed works is sufficient to justify the undertaking;

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- (c) That the works if carried out or provided 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,

it 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 Board to undertake the construction or provision of the works, and such Order shall be notified in the *Government Gazette*.

Powers of Board.
Amended by No. 33 of 1955, s. 10; No. 39 of 1963, s. 30; No. 14 of 1967, s. 12.

24. For the construction, provision, extension, maintenance, repair, alteration, or improvement of any works the Board and all persons acting with its authority may, without prejudice to the exercise under the Public Works Act, 1902 of any power conferred by that Act, enter upon any land, and—

- (a) Make surveys and take levels of the same, and set out such parts thereof as it or 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, upon or above any street and under, upon or above 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;

- (da) Provide, construct, alter and maintain, under any street, and through, across, or under any lands, metropolitan main drains, and metropolitan main drainage works;
- (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, drains, or constructing or providing metropolitan main drains, therein;
- (f) Cause any sewers or metropolitan main drains to discharge upon such land as may be acquired by the Board 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;
- (g) Open, cleanse and repair such pipes, sewers, drains, or metropolitan main 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 it or they may from time to time deem proper for making, repairing, completing, or improving any such waterworks, pipes, sewers, drains, or metropolitan main drains or other works to be made, done, and provided for the purposes of this Act;

Provided, that nothing herein contained shall authorise the Board 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 Board 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.

Acquisition
of land.
Amended by
No. 39 of
1963, s. 31.

25. The Board may take and acquire any land it 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.
Amended by
No. 39 of
1963, s. 32.

26. Before the Board opens or breaks up the soil of any street, it shall give to the local authority notice, in writing, of its intention not less than forty-eight hours before beginning the work, except in cases of emergency, which, in the opinion of the Board, 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.
Amended by
No. 39 of
1963, s. 33.

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 Board may perform the work specified in the notice without such superintendence.

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

Streets broken up to be reinstated without delay. Amended by No. 39 of 1963, s. 34.

- (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.

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

Local authorities to give particulars as to levels. Amended by No. 33 of 1955, s. 11; No. 39 of 1963, s. 35; No. 113 of 1965, s. 4 (1); No. 14 of 1967, s. 13.

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

(3) Thereupon the Board may lower any pipe, sewer, drain, or metropolitan main 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 Board.

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

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

Gas pipes,
etc., to be
altered when
necessary.
Amended by
No. 39 of
1963, s. 36.

30. If the Board 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, it 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 Board, and if such notice shall not be complied with the Board may make the alterations required.

Altering
sewers.
Amended by
No. 33 of
1955, s. 12;
No. 39 of
1963, s. 37.

31. The Board 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:

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 Board shall, at its 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.

Board to
keep sewers
cleansed.
Amended by
No. 39 of
1963, s. 38.

32. The Board shall cause all sewers and drains which shall at any time be vested in it 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 Board may construct or place, either above or underground, such reservoirs, sluices, engine and fittings as it may think necessary, and may cause all or any of such sewers and drains to communicate with and be emptied into such places as it 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.

33. The Board 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:

As to ventilators, etc.
Amended by No. 39 of 1963, s. 39.

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

34. The Board shall cause to be made a map of the Area, on such scale and with such indications of levels and particulars of mains, sewers, and other works as the Board 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 Board, and the same or a copy thereof shall be open, at all reasonable times, to the inspection of the owner or occupier of any land within the Area.

Maps of the area.
Amended by No. 39 of 1963, s. 40; No. 14 of 1967, s. 14.

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 Board, restrain any person by injunction from so doing.

Artesian bores not to be sunk without approval of Governor.
Amended by No. 39 of 1963, s. 41.

PART VI.—WATER SUPPLY.

(1) *The Supply and Distribution of Water.*

Supply
to rated
land.
Amended by
No. 39 of
1963, s. 42;
No. 14 of
1967, s. 15.

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 Board with the quantity of water to which he is entitled in respect of the rates, and, on payment of the prescribed charge, with such further quantity as he may take by measure.

Request for
supply to
rated land.
Amended by
No. 39 of
1963, s. 43.

37. On receiving from the owner or occupier of any land rated under this Act a written request for a supply of water, the Board 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.

Supply to
land not
rated.
Amended by
No. 39 of
1963, s. 44.

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

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

Board
may supply
meter and
charge by
measure.
Amended by
No. 39 of
1963, s. 45.

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

(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 Board 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 Board may charge the prescribed rent for the use of the meter, and the cost of fixing, removing, or replacing it and its fittings whenever

in the opinion of the Board necessary, provided that no charge shall be made on meters supplied to private residences.

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 Board stating the quantity so shown shall, in any proceeding in which the quantity of water is in question, be *prima facie* evidence of the quantity of water supplied.

Record of meter to be *prima facie* evidence of water supplied. Amended by No. 39 of 1963, s. 46.

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

40A. Where during any particular period a meter on any land—

- (a) is not correctly indicating or has not correctly indicated the quantity of water consumed on the land during that period;
- (b) is out of order; or
- (c) has been removed from any land by or on behalf of the Board for repair,

Power to assess water consumption when meter out of order, etc. Added by No. 14 of 1967, s. 16.

the Board or any officer appointed by the Board, may assess the amount of water consumed during that period at an amount not exceeding the fair average amount of water consumed in respect of the land or any similar land during any similar previous period, and the consumer is liable to pay to the Board for the amount of water so assessed, as if that amount of water had passed through the meter and been supplied.

Water may
be cut off
from un-
occupied
premises.
Amended by
No. 39 of
1963, s. 47.

41. The Board 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 Board 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.

Provision
for supply-
ing groups
of houses.
Amended by
No. 39 of
1963, s. 48.

42. The Board may supply a group of dwelling-houses by means of a stand-pipe or other prescribed fittings, and the Board 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.

Supply to
persons
outside area.
Amended by
No. 39 of
1963, s. 49.

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

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

Provided that any land to which the Board 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 Board.

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*,¹

“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;²

“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.

Former s. 45 repealed and s. 44 repealed and re-enacted as s. 45 by No. 41 of 1951, s. 4 (3) and (4).
Amended by No. 39 of 1963, s. 50.
Fire hydrants. Interpretation.

¹ Now Fire Brigades Act, 1942-1966.

² 4th April, 1952. See Proclamation published in *Gazette* dated 4th April, 1952, pp. 799-800.

Board
to fix or
abolish
hydrants.

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

Fire
Brigades
Board may
request
Board
to instal
or abolish
hydrant.

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

Local
authority
may request
Board to
instal or
abolish
hydrant.

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

Board to
comply.

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

Board to
keep
hydrants
in order.

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

Board
to render
statements
of account.

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

Board
to render
statements
of cost of
labour and
materials.

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

Board may
recover
amount of
statement
if not paid.

(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 Fire Brigades Board or the local authority to whom the statement is rendered at the suit of the Board in a court of competent jurisdiction as a debt due.

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

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 Fire Brigades 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 Board shall on installing, abolishing or keeping a fire hydrant in effective order deposit the keys of the fire hydrant at such station as shall be specified—

Board to deposit keys of hydrant at specified station.

by the Fire Brigades 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 Board deliver them to such person at such time as the Board specifies.

At Boards request keys to be delivered to specified person.

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

Supply of water not compulsory. Amended by No. 39 of 1963, s. 51.

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

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.

Duty to keep fittings in repair.

Fittings not to be connected or disconnected without notice.
Amended by No. 39 of 1963, s. 52.

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 Board, or of an authorised officer in that behalf.

Power to enter and examine whether water is wasted, etc.
Amended by No. 39 of 1963, s. 53.

49. (1) Any officer of the Board 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-law, or is out of proper order and repair, the officer of the Board may repair or remove it, and if necessary substitute others in its stead, or may alter the mode of arrangement, as the case requires.

(3) Any expense incurred by the Board in that behalf shall, on demand, be repaid by the owner or occupier of the land, and if not repaid on demand may be recovered by the Board 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 Board until the prescribed notice has been given to the Board, and the consent of the Board in writing obtained.

Protection of fittings. Amended by No. 39 of 1963, s. 54.

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

Power to enter on land and fix fittings. Amended by No. 39 of 1963, s. 55.

(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 Board does any of the following things for the purpose of taking water in a manner not authorised by this Act, that is to say—

Penalty for using unauthorised fittings. Amended by No. 39 of 1963, s. 56; No. 14 of 1967, s. 17.

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

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

Penalty for
not repairing
fittings.
Amended by
No. 39 of
1963, s. 57;
No. 14 of
1967, s. 18.

53. If any person supplied with water by the Board causes or suffers any pipe, receptacle, fitting, or other apparatus used in connection with water supplied to him by the Board to be out of repair without repairing it within a reasonable time, or to be so used or contrived that the water supplied to him by the Board 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 Board, or connected with any such pipe, he shall forfeit and pay to the Board a sum not exceeding forty dollars, and five dollars for every day during which such default shall continue.

Penalty for
destroying
valves, etc.
Amended by
No. 39 of
1963, s. 58;
No. 14 of
1967, s. 19.

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

- (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 Board; or
- (b) flushes or draws off the water from any waterworks of the Board; 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 Board a sum not exceeding two hundred dollars, and shall, in addition, be liable to pay to the Board 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.

Penalty for
taking, etc.,
water in
contraven-
tion of
this Act.
Amended by
No. 39 of
1963, s. 59;
No. 14 of
1967, s. 20.

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

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

Fraudulent taking of water.
Amended by No. 39 of 1963, s. 60.

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

Other consequences of contravening this Act or the by-laws.
Amended by No. 39 of 1963, s. 61.

- (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,

the Board 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 Board to him or for his use, and may discontinue the supply of water to him so long as the cause of injury remains or is not remedied; but such cutting off shall not affect or take away his liability to payment of rates.

PART VII.—SEWERAGE.

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

Heading amended by No. 33 of 1955, s. 13.
Owners and occupiers to make drains to public sewers.
Amended by No. 39 of 1963, s. 62.

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

Board
may make
drains and
attach ven-
tilators in
default of
compliance
with orders.
Amended by
No. 39 of
1963, s. 63.

59. (1) The Board 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 it 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 Board shall deem proper, the Board 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 Board 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.

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 Board for the expenses of making drains or fittings, or attaching or constructing ventilating shafts, pipes, or tubes, the Board 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 Board 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. Amended by No. 39 of 1963, s. 64.

(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 Board to recover such instalments from the owner.

61A. (1) The owner or occupier of land not rated under this Act may, in writing, require the Board to construct a sewer for the purpose of draining the land into the sewer or to construct a connection to an existing sewer for that purpose.

Power of Board to construct sewer for land not rated under Act. Added by No. 14 of 1967, s. 21.

(2) The Board may, if it thinks fit, comply with the request and on such terms as may be agreed upon between the Board and the owner or occupier of the land, construct a sewer or the connection, as the case may be.

62. No person shall, without having previously given one week's written notice to the Board, 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

No private drain or sewer to be made without notice. Amended by No. 39 of 1963, s. 65; No. 14 of 1967, s. 22.

fitting, except according to such plans as the Board may approve, and in such manner as it may direct. Any person contravening the provisions of this section shall, on conviction, forfeit and pay a penalty not exceeding two hundred dollars.

Drains to
be cleansed.
Amended by
No. 39 of
1963, s. 66;
No. 14 of
1967, s. 23.

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 Board, at the expense of the owner or occupier of the land in respect of which the said drains shall have been constructed; and in case any such owner or occupier shall neglect to repair or cleanse any such drain according to the direction of the Board, he shall, upon conviction, for every such offence, forfeit and pay a penalty not exceeding forty dollars.

(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
Board
before com-
mencing or
continuing
sanitary
work.
Amended by
No. 39 of
1963, s. 67;
No. 14 of
1967, s. 24.

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 Board, shall, before the commencement of the work, give notice thereof, in writing, to the Board, and send to the Board two copies of a plan of the proposed work, together with the prescribed fee for examining the plan.

(2) The Board shall, within seven days after the receipt of the plan and prescribed fee, return a copy of the plan with such directions indorsed thereon as may be thought fit.

If the owner or occupier—

(a) commences or causes to be commenced the construction or alteration of any work as

aforesaid without giving such notice or
without furnishing the plan as aforesaid;

or

- (b) having given the notice and furnished the plan commences or causes to be commenced the construction or alteration of the work before the expiration of the seven days abovementioned, and before the plan has been returned by the Board; or
- (c) fails to follow the directions indorsed on the plan,

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

Provided that the above provisions of this section shall not apply in a case where the Board declares, in writing under its seal, that it 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 Board 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 Board.

(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 forty dollars.

65. Where any drain is made to communicate with any sewer, any engineer, surveyor, or other person authorised by the Board may enter upon any house, tenement, or land and inspect such

Inspection
by Board.
Amended by
No. 39 of
1963, s. 68.

drain, and in the event of the same being found to be improperly laid, the Board 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.

Construction over sewers prohibited without prior consent of Board. Repealed and re-enacted by No. 14 of 1967, s. 25.

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

(a) erect, construct or place any building, wall, fence or obstruction in, upon, over or under a sewer and then only upon and subject to such terms and conditions as the Board thinks fit to impose for the protection of the sewer from interference or damage; or

(b) obstruct, fill in, close up or divert a sewer.

Penalty: Eighty dollars, and in the case of a continuing offence, a further penalty not exceeding twenty dollars for each day the offence continues after the Board serves notice of the offence on the offender.

(2) The Board may demolish and remove any building, wall, fence or obstruction which is erected, constructed or placed in contravention of subsection (1) of this section and which interferes with or injuriously affects a sewer in the carrying away of sewage or drainage, and perform any works necessary for restoring or reinstating the sewer.

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

Inspection of communicating drains. Amended by No. 39 of 1963, s. 70; No. 14 of 1967, s. 26.

67. Any person acting under the authority of the Board may at all reasonable times enter into or upon any land having a drain communicating with the sewers of the Board, 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 forty dollars.

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 Board, permits any other person not having the authority or consent of the Board 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 forty dollars over and above the full amount of the damage sustained by the Board by the acts or means in respect of which such penalty shall be incurred, and the Board shall be at liberty to cut off from the main sewer the drain of every such person so offending.

Penalty for giving use of drain without permission. Amended by No. 39 of 1963, s. 71; No. 14 of 1967, s. 27.

69. Every person, who, not being authorised by the Board, 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 two hundred dollars, besides the amount of the expense to which the Board 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.

Penalty for destroying sewers and fittings. Amended by No. 39 of 1963, s. 72; No. 14 of 1967, s. 28.

69A. (1) Without limiting the generality of paragraph (c) of subsection (2) of section eight of this Act, the Board may purchase from a local authority any sewers and works connected with sewerage that have been constructed with money borrowed by the local authority under Division 2 or 3 of Part XXVI of the Local Government Act, 1960 and that are vested in it pursuant to section fifty-three of the Health Act, 1911.

Power of Board to acquire sewers etc. from a local authority. Added by No. 14 of 1968, s. 2.

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and Drainage.*

(2) Any sewers and works connected with sewerage purchased by the Board from a local authority pursuant to this section—

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

Power to
construct
common
drains.
Amended by
No. 39 of
1963, s. 73;
No. 14 of
1967, s. 29.

70. (1) Where in the opinion of the Board several portions of land in the separate occupation of several persons may be drained effectively by a common drain, the Board may, pursuant to section fifty-nine of this Act, give the notice therein referred to, to the owner or occupier of the several portions of land.

(2) Where the Board gives a notice pursuant to subsection (1) of this section, the provisions of this Act in general and section fifty-nine of this Act in particular, with such modifications as circumstances require, apply to the common drain.

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

(4) The Board may discontinue the use of a drain as a common drain by giving notice in writing to the owner or occupier of each of the several portions of land that are drained by the common drain, if prior to the giving of the notice provision has been made for the several portions of land to be otherwise drained in accordance with this Act.

71. The Board 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 Board.
Amended by
No. 39 of
1963, s. 74.

PART VIIA.—METROPOLITAN MAIN DRAINS.

Part VIIA
added by
No. 33 of
1955, s. 14.

71A. In this Part—

Inter-
pretation.
Added by
No. 33 of
1955, s. 14.

“local authority” has the same meaning as in section five of this Act, and also includes a board constituted under the Land Drainage Act, 1925.

71B. The Board has the control of metropolitan main drains and metropolitan main drainage works.

Board
has control
of metro-
politan
main drains.
Added by
No. 33 of
1955, s. 14.
Amended by
No. 39 of
1963, s. 75.

71C. (1) The Board may in accordance with the provisions of this section constitute, as a metropolitan main drain,

Metro-
politan
main drains,
power of
Board to
constitute.

(a) the whole or part of an existing pipe, conduit, channel, stream, or watercourse, which, whether vested in or under the control of the Board or of a local authority immediately before being so constituted a metropolitan main drain, is within the Area; and

Added by
No. 33 of
1955, s. 14.
Amended by
No. 39 of
1963, s. 76;
No. 14 of
1967, s. 30;
No. 14 of
1968, s. 3.

(b) a new drain which the Board proposes to provide in the Area, whether wholly or

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partly by the construction of works or by the use or adaptation of the whole or part of a stream or watercourse, or an existing pipe, conduit, or channel.

(2) The Board may constitute a metropolitan main drain—

- (a) by assigning to it a name;
- (b) by determining the point of its commencement and the point of its termination;
- (c) by determining its course between those points; and
- (d) by causing to be published in the *Gazette* notice that thereby it constitutes the metropolitan main drain, specifying in the notice that name, point of commencement, point of termination, and course.

(3) From time to time the Board may, by subsequent notice published in the manner prescribed by subsection (2) of this section, alter the name, point of commencement, point of termination, or course of a metropolitan main drain.

(4) Where the Board constitutes as the whole or part of a metropolitan main drain, the whole or part of a pipe, conduit, or channel already in existence and under the control of a local authority or any person, local authority or that person is not entitled to compensation from the Crown or the Board in respect of that existing pipe, conduit, or channel.

(5) The Board may, by notice, published in the *Government Gazette*, declare that any metropolitan main drain or part of any metropolitan main drain which is specified in the notice, shall cease to be a metropolitan main drain or part of a metropolitan main drain, as the case requires, and effect shall be given to the notice according to its tenor.

71D. (1) In this section—

“building line” means a building line prescribed under by-law made under this Act.

(2) The Board if it has complied with the requirements of subsection (3) of this section may prescribe a building line in relation to either side, or both sides, of any part of a metropolitan main drain.

(3) Where the Board proposes to prescribe a building line, the Board—

- (a) shall cause to be prepared a plan of the locality for which it intends to prescribe the building line;
- (b) shall cause the proposed building line to be distinctly marked and shown on the plan;
- (c) shall cause the plan so marked to be available for inspection without charge at such place or places and at such time or times as it appoints;
- (d) shall cause to be published in the *Gazette* and in a newspaper generally circulating in that locality, notice of the proposal and of the appointed place or places where, and of the appointed time or times when, the plan is available for inspection without charge;
- (e) shall cause to be served on the owner, occupier, and lessee of land proposed to be affected a copy of the notice mentioned in paragraph (d) of this subsection; and
- (f) shall, if, within one month of the service of the notice, a person upon whom it is served gives written notice to the Board of objection to the proposals, stating the grounds of objection, consider the objection.

(4) Where a by-law prescribing a building line is in force, no person shall erect a new building or structure wholly or partly nearer the centre of the metropolitan main drain than the building line, unless with the consent and under the conditions, if any, mentioned in subsection (5) of this section.

Building line.
Building within prescribed distance of metropolitan main drains may be restricted.
Added by No. 33 of 1955, s. 14.
Amended by No. 39 of 1963, s. 77; No. 14 of 1967, s. 31.

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and Drainage.*

(5) The Board may, upon such conditions, if any, as it thinks fit to impose generally or in the particular circumstances of the case, consent to erection on land of a new building or structure wholly or partly nearer the centre of the metropolitan main drain than the building line; and where the Board imposes conditions, they bind the owner, occupier, and lessee of, and their respective successors in title to, the land.

(6) (a) A person who erects, or permits to be erected, a building or structure in contravention of subsection (4) or of a condition imposed under subsection (5), of this section, commits an offence.

Penalty: Sixty dollars.

(b) A Court, convicting a person on complaint of an offence mentioned in paragraph (a) of this subsection, shall order the person to remove the building or structure, the subject of the complaint, by such day as the Court appoints, and if the person does not comply with the order by the appointed day, he commits a continuing offence.

Penalty: Ten dollars for each day during which the offence continues after the appointed day.

(c) The provisions of this subsection do not prejudice or affect any other right to proceed against a person to restrain him from a contravention of subsection (4) of this section, or to compel him to remove, wholly or partly, a building or structure erected in contravention of this subsection.

Compensation.

(7) (a) A person the value of whose estate or interest in land is depreciated by the prescription of a building line is entitled to compensation in accordance with the provisions of this section but not otherwise.

(b) The amount of compensation is a sum equal to the difference between the market value, on such of the days mentioned in paragraph (c) or paragraph (d) of this subsection as is applicable, of

the estate or interest irrespective of the prescription of the building line, and that market value as depreciated by the prescription of the building line, less the value of the benefit, if any, accruing to the estate or interest from works constructed or about to be constructed by the Board.

(c) If the by-law prescribing the building line is published in the *Gazette* on or before the thirtieth day of June in any year, the market value firstly mentioned in paragraph (b) of this subsection is that of the first day of January next preceding the publication of the by-law in the *Gazette*.

(d) If the by-law prescribing the building line is published in the *Gazette* after the thirtieth day of June in any year, the market value firstly mentioned in paragraph (b) of this subsection is that of the thirtieth day of June next preceding the publication of the by-law in the *Gazette*.

(e) The Board may enter into agreements relating to compensation.

(f) Where there is no agreement, Part III, of the Public Works Act, 1902, as modified by paragraphs (b), (c), (d) and (g) of this subsection applies *mutatis mutandis* in respect of the compensation.

(g) For the purpose of the application of Part III. of that Act, section thirty-six of that Act, which prescribes the period within which a claim for compensation may be made, is modified so that reference in that section to the date of publication in the *Gazette* of the notice of taking land is deemed to be a reference to the date of publication in the *Gazette* of the by-law prescribing the building line.

71E. (1) In this section—

“local drainage area” means part of the Area constituted a local drainage area under this section.

(2) Where the Board is of opinion that surplus water is flowing or can be made to flow from any part of the Area to, and through, a metropolitan main drain, it may constitute that part of the Area

Local
drainage
area—
power of
Board to
constitute.
Added by
No. 33 of
1955, s. 14.
Amended by
No. 39 of
1963, s. 78;
No. 14 of
1967, s. 32;
No. 14 of
1968, s. 4.

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a local drainage area in respect of that metropolitan main drain—

- (a) by assigning a name to that part;
- (b) by determining the boundaries of that part;
- (c) by assigning that part of the Area as a local drainage area to an appropriate metropolitan main drain; and
- (d) by causing to be published in the *Gazette*, a notice that thereby it constitutes the local drainage area, specifying in the notice, that name, those boundaries, and the name of the appropriate metropolitan main drain to which the local drainage area is assigned.

(3) From time to time the Board may, by subsequent notice published in the manner prescribed by subsection (2) of this section, alter the name or boundaries of the local drainage area, or assign the whole or part of a local drainage area to a different metropolitan main drain.

(4) A local authority shall not drain or divert surplus water from one local drainage area to another, or from outside a local drainage area into a local drainage area.

(5) (a) A local authority may, with the written authorisation of the Board, cause surplus water to drain into a metropolitan main drain.

(b) The Board may grant written authorisation to a local authority to cause surplus water to drain into a metropolitan main drain in such manner or by or through such works, as the Board approves, and subject to such conditions as the Board imposes.

(c) The Board may by written notice to a local authority cancel a written authorisation, or from time to time alter conditions, mentioned in paragraph (b) of this subsection.

(d) A person who without, or otherwise than in accordance with, the authorisation of the Board,

- (i) causes or attempts to cause surplus water or other fluids to drain into a metropolitan main drain;

Cf. No. 30 of
1918, s. 4.
"Person"
includes
body
corporate;
Local
Government
Act, s. 9 (2).

- (ii) connects or attempts to connect any pipe, conduit, channel or other thing, whether of the same kind as, or a different kind from, things here specified, to a metropolitan main drain; or
 - (iii) stops, obstructs, alters, damages, or interferes with, a metropolitan main drain;
- commits an offence.

Penalty:

Where the offence is a continuing offence, a sum not exceeding fifty dollars and in addition a sum not exceeding four dollars for each day the offence continues; or

where the offence is other than a continuing offence, a sum not exceeding fifty dollars.

- (e) In addition to any penalty that may be imposed on a person for an offence under paragraph (d) of this subsection, the person shall also pay to the Board the amount of the expense incurred by the Board in repairing the damage to the metropolitan main drain caused by or arising out of the act that constituted the offence.

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.

Amended by No. 14 of 1967, s. 33.

- (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;

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- (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; and
- (iii) Any land declared by the Governor to be exempt from rates under this Act pursuant to paragraph (h) of this section shall be rateable land within the meaning of this Act, if the Governor by subsequent declaration so declares.

(2) Rate Books.

73. The Board shall cause rate books to be kept in the form or to the effect of the Third Schedule, and shall enter therein all rateable land in the Area with the several particulars indicated in the said schedule, and in the appropriate column shall state the annual value or unimproved capital value of such land, as assessed in accordance with the provisions of section seventy-four or seventy-five of this Act.

Rate books-
Third
Schedule.
Amended by
No. 71 of
1960, s. 3;
No. 39 of
1963, s. 79;
No. 14 of
1967, s. 34.

74. The annual value of any rateable land within a district may, at the option of the Board, be either—

Valuation.
Amended by
No. 71 of
1960, s. 4;
No. 39 of
1963, s. 80;
No. 113 of
1963, s. 4 (1).

- (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 a deduction of forty per centum for all outgoings; or
- (3) An amount not exceeding six per centum on the capital value of the land in fee simple.

74A. Where the basis of valuation is the annual value and more persons than one are in separate occupation of a building erected on any portion of rateable land, each of them shall be deemed to be in occupation of a part of the land, and the annual value of the part shall be taken to bear the same proportion to the annual value of the whole of the land as the annual rental value of the part of the building occupied by him bears to the annual rental value of the whole of the building.

Apportion-
ment of
annual value
to separate
occupations.
Added by
No. 33 of
1955, s. 15.
Cf. s. 533 (4)
(d)
Local
Government
Act, 1960.

75. (1) The Board may adopt in the Area a general system of valuation on the basis of the capital unimproved value of land instead of a valuation as prescribed by section seventy-four of this Act. Provided that this system shall not be

Assessment
on unim-
proved
values.
Amended by
No. 33 of
1955, s. 15;
No. 39 of
1963, s. 81;
No. 14 of
1967, s. 35.

used in any part of the Area that is within the district of any local authority which is at the time levying rates on the estimated annual value of the land.

(2) In such case the unimproved capital value of rateable land that is within the district of a local authority 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.

Appoint-
ment and
powers and
duties of
valuers.
Added by
No. 33 of
1955, s. 16.
Amended by
No. 39 of
1963, s. 82;
No. 113 of
1965, s. 4 (1).
Cf. s. 533,
Local
Government
Act, 1960.

75A. (1) The Board may appoint a valuer or valuers who shall make valuations from time to time as required.

(2) A valuation so made may be adopted by the Board and, when adopted, shall be the valuation, and rates imposed under this Act shall be assessed thereon.

(3) A valuer so appointed has, for the purpose of making the valuation, power to enter into and upon land without being liable to legal proceedings on account thereof, and also has power to search in the Office of Titles and Registry of Deeds, or any office of the Department of Lands and Surveys, or of the Department of Mines, and to inspect all plans, grants, transfers, Certificates of Titles, and memorials free of charge.

(4) A valuer may put to the owner, or agent of the owner, or any person in occupation or charge, or in apparent occupation or charge, of any lands which the valuer is authorised to value, any question necessary to enable him to state correctly the several particulars required to be stated in his valuation work with regard to the land.

(5) A person who, after being informed by the valuer of the purpose of putting the questions, and of his authority to put them, refuses or omits to

answer them to the best of his knowledge and belief, or makes a false answer or statement in reply to a question, commits an offence.

Penalty: Twenty dollars.

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 throughout the Area.

Rate book to be open to inspection. Amended by No. 14 of 1967, s. 36.

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

77. Any person authorised by the Board, 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.

Board may inspect rate books of local authorities. Amended by No. 39 of 1963, s. 83.

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

Access to be given. Amended by No. 39 of 1963, s. 84.

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

Penalty for not permitting inspection. Amended by No. 39 of 1963, s. 85; No. 14 of 1967, s. 37.

80. (1) The town clerk or the shire clerk of every municipality in which any main-pipe, sewer, or drain is laid down, shall, if required by the Board, as soon as practicable after the third Saturday in December in each year, and not later than one

Clerks of local authorities to supply copy of rate book. Amended by No. 39 of 1963, s. 86; No. 113 of 1965, s. 4 (1).

calendar month thereafter, deliver to the Board a copy of the rate book of such local authority, verified as a true copy by the statutory declaration of the town clerk or shire clerk as the case may be.

Board
to pay for
copy rate
book.

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

Amend-
ments to be
notified.

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

Rateable
value.
Amended by
No. 2 of 1941,
s. 2; No. 71
of 1960, s. 5;
No. 39 of
1963, s. 87.

81. The assessed annual value or capital unimproved value set against any rateable land in the rate books kept by the Board 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.

Rate book
may be
amended.
Amended by
No. 39 of
1963, s. 88.

82. The Board 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.

Notice of
amendment
to be given.
Amended by
No. 71 of
1960, s. 6;
No. 39 of
1963, s. 89.

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

Board
may use
previous
year's rate
book.
Amended by
No. 39 of
1963, s. 90.

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

(3) Appeals.

85. Any ratepayer may appeal against any valuation of any land of which he is the owner or occupier included in a rate book, or any amendment thereof.

Grounds of appeal against assessment. Amended by No. 71 of 1960, s. 7.

86. Appeals shall be made to the Appeal Board constituted under section eighty-six A of this Act, and from the decision of that Board there may be a further appeal to the Local Court held nearest to the land to which the appeal relates, as hereinafter provided.

Appeals, how made. Amended by No. 71 of 1960, s. 8; No. 14 of 1967, s. 38.

86A. (1) For the purposes of this Act there shall be an Appeal Board which shall comprise three members, who shall be appointed by the Governor and shall be—

Constitution of Appeal Board. Added by No. 71 of 1960, s. 9. Amended by No. 39 of 1963, s. 91.

- (a) a person appointed upon the nomination of the Minister, who shall be chairman of the Board;
- (b) an officer of the Metropolitan Water Supply, Sewerage, and Drainage Board;
- (c) a ratepayer, being a person who is not subject to the provisions of the Public Service Act, 1904.

(2) Each member of the Board shall hold office for a period of three years from the date of his appointment as a member of the Board and at the expiration of the term for which he is appointed is eligible for re-appointment if he is then qualified to act.

Tenure of office.

(3) The Governor may for good cause terminate by notice in writing served on a member of the Board his appointment as member.

Termination of appointment.

(4) On the occurrence of any vacancy in an office of member of the Board before the expiration of the term for which the member was appointed, a qualified person shall, in accordance with the pro-

Vacancies.

visions of this Act, be appointed by the Governor to fill the vacancy; and any person so appointed shall hold office for the remainder of the term of office of the member in whose place he is appointed.

Deputies.

(5) The Governor may appoint such persons having the necessary qualifications as deputies to act in the respective places of the chairman and other members of the Board, when not able or available to act, and persons so appointed may, while so acting, carry out any function which the chairman or the other member for whom he is the deputy, if acting, could exercise.

Decision of Board.

(6) The decision of any two members of the Board shall be the decision of the Board.

(7) The Board shall regulate the procedure to be followed on the hearing by it of any appeal or on the determination by it of any question referred to the Board for determination.

(8) The chairman and other members of the Board and their deputies are entitled to such remuneration and allowances as are prescribed.

Appeals to Appeal Board. Fourth Schedule. Repealed and re-enacted by No. 71 of 1960, s. 10. Amended by No. 39 of 1963, s. 92; No. 14 of 1967, s. 39.

87. (1) An appeal to the Appeal Board shall be by notice setting out the grounds of appeal in the Form of the Fourth Schedule.

(2) The appellant shall give the notice of appeal to the Appeal Board and the Board within thirty days of the receipt by the appellant of the rate notice or amended rate notice showing the valuation against which the appeal is to be made.

(3) (a) The Appeal Board shall not hear an appeal unless the appellant has deposited with the Board at the time he gives the notice of appeal to the Board the amount of the rates then due and payable in respect of the valuation against which the appeal is made.

(b) This subsection does not apply if the appellant is a pensioner or other person who has claimed and obtained pursuant to the provisions of the Pensioners (Rates Exemption) Act, 1922,¹ exemption from liability for the payment of rates under this Act.

¹ Now Pensioners (Rates Exemption) Act, 1966.

(4) (a) The Appeal Board shall give to the Board and the appellant a notice in the form of the Fifth Schedule.

Fifth
Schedule.

(b) The notice shall be so given at least ten days before the date set down for the hearing of the appeal.

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

Appeals to
the Local
Court from
decisions
of the
Appeal
Board.
Sixth
Schedule.

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

Amended by
No. 71 of
1960, s. 11.
No. 39 of
1963, s 93.

(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.

89. (1) On the hearing of all appeals, the rate book or a copy or extract therefrom certified by the Board shall be produced; and the Appeal Board, or the Local Court on appeal from the Appeal Board, 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.

Hearing of
appeal.
Amended by
No. 71 of
1960, s. 12.
No. 39 of
1963, s. 94.

(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.

Settlement
by Appeal
Board of
dispute as to
classification
of certain
rateable
land.

Added by
No. 71 of
1960, s. 13.
Amended by
No. 39 of
1963, s. 95.

89A. (1) If, after the receipt of a rate notice or amended rate notice, any question arises as to whether the land to which the notice or amended notice relates is or is not land used for residential purposes, the question may, on the written application of the ratepayer named in the notice or amended notice, be referred to the Appeal Board constituted under this Act, which shall decide the question.

(2) The decision of that Board on the question shall be final and conclusive and the rate book and assessment referred to in the rate notice or amended rate notice shall be amended to give effect to the decision.

(3) The application shall be served by the ratepayer on the Board within a period of fourteen days of the receipt by him of the rate notice or amended rate notice referred to in subsection (1) of this section.

(4) On receipt of the application by the Board, the Board shall forward the application, or cause it to be forwarded, as soon as practicable, to the Appeal Board.

Land subject
to water
rates.

Amended by
No. 71 of
1960, s. 14;
No. 75 of
1962, s. 2;
No. 39 of
1963, s. 96;
No. 14 of
1967, s. 40;
No. 8 of
1969, s. 2.

90. (1) The Board shall, from time to time, make and levy water rates in respect of all rateable land within the Area, 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.

(2) Where, within the Area, any rateable land is used for residential purposes, the Board may make and levy a water rate in respect of that land being a rate less than the water rate made in respect of rateable land within the Area which is not so used.

(3) For the purposes of this section—

(a) the expression “rateable land used for residential purposes” means any rateable land which is used wholly or primarily for

the purpose of providing the owner or occupier of the land with a residence for himself his family or servants or any of them; and

- (b) the term "residence" means a private dwelling house including any yard, garden, outhouses or appurtenances belonging thereto or usually enjoyed therewith and includes a home unit or flat; and
- (c) "home unit or flat" means a separate set of premises, whether or not on the same floor, constructed for use for the purpose of a dwelling and forming part of a building from some other part of which it is divided either horizontally or vertically.

91. The Board shall, from time to time, make and levy sewerage rates in respect of all rateable land within the Area 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 Board, of being connected with such sewer, and notice thereof has been given, by or on behalf of the Board, to the owner or occupier.

Land subject to sewerage rates. Amended by No. 39 of 1963, s. 97; No. 14 of 1967, s. 41.

92. The Board may make and levy metropolitan main drainage rates in respect of all rateable land within any metropolitan main drainage District.

Land subject to storm water rates. Amended by No. 33 of 1955, s. 17; No. 39 of 1963, s. 98.

93. Rates shall be made for the following purposes to provide funds—

Purposes for which rates shall be made.

- (a) to defray the expenses of the general administration of this Act;
- (b) to defray the expenses incurred in the maintenance and management of water works, sewerage works and metropolitan main drainage works;

Repealed and re-enacted by No. 14 of 1967, s. 42.

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- (c) for paying the prescribed interest and sinking fund on the capital cost of works; and
- (d) for the construction, extension and improvement of works as may be provided, constructed, extended or improved out of revenue.

Amount of rate. Substituted by No. 30 of 1925, s. 2. Amended by No. 13 of 1951, s. 3; No. 33 of 1955, s. 19; No. 39 of 1963, s. 99; No. 113 of 1965, s. 4 (1).

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

- (i) ten cents in the dollar on the annual rateable value of the land rated, or
- (ii) one and two-thirds cents in the dollar 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) ten cents in the dollar on the annual rateable value of the land rated, or
- (ii) one and two-thirds cents in the dollar 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 metropolitan main drainage rate shall not in any one year exceed—

- (i) two and one-half cents in the dollar on the annual rateable value of the land rated, or
- (ii) five-twelfths of a cent in the dollar 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 Board 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, two dollars; in the case of a sewerage rate, two dollars; and in the case of a metropolitan main drainage rate, fifty cents.

95. (1) Whenever any rate is ordered by the Board to be made and levied, the Board 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.

Manner of making rate.
Amended by No. 2 of 1941, s. 3; No. 39 of 1963, s. 100.

(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 metropolitan main drain is laid down, or provided, or extended after a rate has been struck for the year, and notice of the rate published in the *Government Gazette*, a proportionate part of the rate shall thereupon become payable in accordance with the by-law in respect thereof for the unexpired portion of the year from the date the pipe, sewer, or metropolitan main drain is laid down, or provided, or extended.

Rate for unexpired portion of year in case of new pipes, sewer or drain.
Amended by No. 33 of 1955, s. 20; No. 14 of 1967, s. 43.

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.

97A. (1) Where the 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 Board that by reason of any improvements made to or erected upon such land or by reason of the land having been subdivided under and in accordance with the Town Planning and Development Act, 1928, 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 Board may cause the annual value to be reassessed for and in respect of the then

Power to amend valuation and adjust rates in certain cases.
Added by No. 2 of 1941, s. 4.
Amended by No. 33 of 1955, s. 21; No. 71 of 1960, s. 15; No. 39 of 1963, s. 101; No. 14 of 1967, s. 44.

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.

(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.

(3) Where the amount of rates is increased under subsection (1) of this section, the amount of the increase is payable in accordance with the by-laws.

(4) Where the amount of rates is reduced under subsection (1) of this section, but has already been paid at the time of the reduction, the Board shall refund or credit the amount of the reduction in accordance with the by-laws.

Validation
of rates.
Added by
No. 71 of
1960, s. 16.
Amended by
No. 39 of
1963, s. 102.

97B. (1) All rates made and levied by the Minister under this Act or purporting to be so made and levied before the coming into operation of the Metropolitan Water Supply, Sewerage, and Drainage Act Amendment Act, 1960, for any year ending the thirtieth day of June up to and including the thirtieth day of June, one thousand nine hundred and sixty-one and demanded or collected whether before or after the coming into operation of that Act, shall be deemed to have been lawfully made and levied and lawfully demanded or collected.

*[Subsections (2), (3), (4), (5) and (6) repealed
by No. 39 of 1963, s. 102.]*

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

Rates, when
payable.
Amended by
No. 33 of
1955, s. 22.

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

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 for water supplied by measure.

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.

Payment by measure when land rated.

100A. Where—

- (a) an owner or occupier ceases to be the owner or occupier of land rated under this Act during a period in respect of which a rate is made;
- (b) neither the owner or occupier nor the succeeding owner or occupier complies with the provisions of section one hundred and forty-eight A of this Act; and
- (c) the whole of the water supplied by measure during the period to those owners or occupiers exceeds the prescribed quantity which is entitled to be received in respect of the rate,

Payment by measure as assessed in certain cases. Added by No. 14 of 1963, s. 5.

the Board or any officer appointed by the Board may assess the amount of water in excess of that prescribed quantity that was consumed by each owner or occupier, and thereupon each owner or occupier is liable to pay the prescribed charge in respect of the amount of water so assessed with respect to him.

101. The Board 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 it to non-rateable land.

Supply to local authorities. Amended by No. 39 of 1963, s. 103.

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

Rebate of sanitary rate paid to local authority.

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.

Heading.
Amended by
No. 14 of
1967, s. 45.

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

(i) Generally.

Who is
liable for
rates.
Amended by
No. 39 of
1963, s. 104;
No. 14 of
1967, s. 46.

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

(2) The amount of the rates or prescribed charges referred to in subsection (1) of this section may also, at the option of the Board, be recovered from the owner of the land rated or of the land in respect of which the charge is levied, as the case may be.

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

Payment of
rates by
mortgagee.
Amended by
No. 14 of
1967, s. 47.

104. If a mortgagee of rateable land pays any rates or prescribed charges 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.

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.

(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.

105A. Where an occupier or owner ceases to be the occupier or owner of land in respect whereof a rate is made, before the end of the period in respect of which that rate is made—

Apportionment of rates not to affect entitlement to water in respect of rates paid.

- (a) the prescribed quantity of water which is entitled to be received in respect of the rate is not apportionable between that occupier or owner and the succeeding occupier or owner in the manner in which the rate is apportionable pursuant to section one hundred and five of this Act; and
- (b) the succeeding occupier or owner is entitled to receive, in respect of the rate, the portion, if any, of that prescribed quantity of water, that has not been consumed when the change in occupancy or ownership takes place.

Added by No. 14 of 1968, s. 6.

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

Persons liable to be resorted to in succession. Amended by No. 14 of 1967, s. 48.

Rates to carry interest. Amended by No. 113 of 1965, s. 4 (1).

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 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. Amended by No. 39 of 1963, s. 105; No. 113 of 1965, s. 4 (1).

108. The Board 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 per centum of the amount of such rates.

How rates may be recovered. Amended by No. 14 of 1967, s. 49.

109. The amount payable in respect of any rate made and levied under this Act or any prescribed charges 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. Amended by No. 39 of 1963, s. 106.

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 Board, 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. Amended by No. 39 of 1963, s. 107; No. 14 of 1967, s. 50.

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

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

the Board or collector making such request, the name of the owner of such land, or of the person receiving or authorised to receive the rents of the same; or

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

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

112. On any annexation to or extension of the Area, or metropolitan main drainage 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 Board 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 and shall be payable in accordance with the by-laws.

Application of this Part to annexed areas.

Amended by No. 33 of 1955, s. 23; No. 39 of 1963, s. 108; No. 14 of 1967, s. 51.

(ii) Power to Lease.

113. (1) When in respect of any land any rates or prescribed charges 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 Board 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.

Amended by No. 39 of 1963, s. 109; No. 14 of 1967, s. 52.

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- (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 Board shall continue to be rateable land.

Procedure.
Amended by
No. 39 of
1963, s. 110.

114. (1) The Board 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 Board 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 Board seems fit;
- (b) Reserve the best rent which in the opinion of the Board can be reasonably obtained for the property; and
- (c) Contain such other reservations and such exceptions, covenants, and conditions as to the Board seem fit.

(6) Any lease granted by the Board, 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.

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 Board, 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 per centum per annum, calculated at simple interest, the Board 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. Amended by No. 39 of 1963, s. 111; No. 113 of 1965, s. 4 (1).

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

(3) Upon the execution of the release such person shall, subject to any lease theretofore lawfully granted by the Board 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 Board, whichever first happens, upon receipt thereof by the Board, be applicable—

Appropriation of rents received. Amended by No. 39 of 1963, s. 112.

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To defray
expenses.

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 pay
arrears of
rates, etc.

Secondly—In payment to the Board 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.

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 Board.
Amended by
No. 39 of
1963, s. 113.

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 Board.

(iii) Power of Sale.

When land
may be sold.
Amended by
No. 39 of
1963, s. 114;
No. 14 of
1967, s. 53.

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 Board may send to the clerk of the Local Court held nearest to the land, 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.

Tenth
Schedule.

(2) Upon receipt of the certificate such clerk of the Local Court shall, at the cost of the Board, 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.

Eleventh
Schedule.

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 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.

Warrant of
execution.
Amended by
No. 113 of
1965, s. 4 (1).

(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 Board 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 con-
clusive.
Amended by
No. 39 of
1963, s. 115.

121. The moneys arising from the sale of the land shall in priority to every mortgage, encumbrance, lien, caveat, judgment, writ, warrant, or other

Application
of proceeds.
Amended by
No. 39 of
1963, s. 116.

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—

Firstly—In payment of the cost 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 Board to the clerk of the Local Court and may be recovered by him accordingly;

Secondly—In payment of all rates and other moneys and interests due and to expenses incurred by the Board; 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.
Amended by
No. 39 of
1963, s. 117.

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 president of any local authority that a certain specified amount is due to such local authority for arrears or 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.

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.

Duty of clerk to convey.

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.

Registration of purchaser.

PART IX.—FINANCE.

125. [*Repealed by No. 39 of 1963, s. 118.*]

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

Transfer of works from Minister to the Board.

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

Amended by No. 8 of 1925, s. 2; No. 39 of 1963, s. 119; No. 14 of 1967, s. 54.

(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 Board shall, with the approval of the Governor, determine the amount expended on the works transferred as aforesaid.

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(3) The amount so determined, and all moneys so expended, shall be a liability of the Board to the Treasurer, and interest at such rate per centum per annum, and contribution to a sinking fund at such rate per centum per annum, shall be chargeable thereon, as the Treasurer may determine but for the purposes of this subsection any amount so determined and moneys so expended shall relate only to moneys of the kind referred to in paragraph (b) of subsection (1) of this section.

(4) [*Repealed by No. 14 of 1967, s. 54.*]

(5) [*Repealed by No. 14 of 1967, s. 54.*]

Funds.
Substituted
by No. 39 of
1963, s. 120.

127. (1) The funds necessary for the effectual exercise by the Board of the powers conferred on it by this Act shall be—

- (a) such moneys as are from time to time appropriated by Parliament for that purpose;
- (b) all revenue received by the Board for rates, charges, or rents and all other moneys whatsoever received by the Board under the authority of this Act; and
- (c) such moneys as the Board may borrow under and subject to the provisions of this Act.

(2) The Board shall place the funds referred to in subsection (1) of this section to the credit of an account at the Treasury to be called the "Metropolitan Water Supply, Sewerage, and Drainage Board General Fund Account" and that Account shall be operated upon in manner prescribed.

(3) All—

- (a) moneys received by the Board shall be paid by it into; and
- (b) expenditure lawfully incurred by the Board shall be drawn from,

that Fund Account.

(4) The Board shall keep such accounts, and prepare such annual financial statements in relation to the Fund Account in such form and containing such particulars as the Treasurer may direct.

(5) Any money standing to the credit of the Fund Account may, until required by the Board for the purposes of this Act, be temporarily invested, as the Treasurer may direct, in any securities in which money in the Public Account as that account is defined in the Audit Act, 1904, may lawfully be invested, and all interest derived from such investment shall be paid by the Treasurer into the Fund Account.

127A. (1) When the moneys in the Fund Account referred to in section one hundred and twenty-seven of this Act are not sufficient to meet in full the expenditure incurred by the Board under this Act, the Board, in addition to any other power to borrow money conferred on it by this Act, may, notwithstanding the provisions of any other Act, with the consent of the Governor, requisition the Treasurer for any moneys required by the Board for the purpose of meeting that expenditure and the Treasurer may pay to the Board forthwith the amount so requisitioned out of moneys available to him, being moneys appropriated by Parliament for the purpose.

Power to
borrow from
Treasurer.
Added by
No. 39 of
1963, s. 121.

(2) The Board shall pay to the Treasurer in respect of moneys so requisitioned and paid by the Treasurer to the Board interest at such rate and at such times as the Governor determines.

(3) Moneys so requisitioned by and paid to the Board and interest payable thereon are a charge upon the moneys from time to time in the Fund Account referred to in subsection (1) of this section and upon any works, undertakings and other assets vested in the Board.

128. (1) Subject to this section and notwithstanding the provisions of any other Act, the Board may at any time, with the consent of the Governor,

Power of
Board to
borrow.
Substituted
by No. 39 of
1963, s. 122.
Amended by
No. 8 of
1969, s. 3.

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borrow money on the security of its revenues or upon a guarantee as provided in subsection (3) of this section—

- (a) for the construction of works;
- (b) to discharge the principal money and interest thereon of any existing loan or for the consolidation of the debts of the Board;
- (c) for any other purpose approved by the Governor.

(2) The Governor shall not consent pursuant to subsection (1) of this section, unless a written proposal specifying, subject to this section,—

- (a) the term and particulars of the proposed loan;
- (b) the rate of interest to be paid on the proposed loan;
- (c) the purposes to which the money proposed to be borrowed by the Board is to be applied; and
- (d) the manner in which the loan is to be repaid,

is first submitted by the Board to, and approved by, the Minister.

(3) The Treasurer may, in the name and on behalf of the Crown in right of the State, guarantee repayment of principal and interest on any loan borrowed by the Board under this section, being a loan other than a loan on the security of its revenues.

(4) Any moneys borrowed by the Board pursuant to this section—

- (a) may be raised as one loan or as several loans; and
- (b) may be raised—
 - (i) by the issue of debentures payable to bearer;

- (ii) by the creation and issue of inscribed stock, to be called "Metropolitan Water Supply, Sewerage, and Drainage Board Inscribed Stock";
- (iii) partly as provided by subparagraph (i) and partly as provided by subparagraph (ii) of this paragraph; or
- (iv) in such other manner as may be prescribed or as the Governor may approve.

(5) All debentures and inscribed stock, respectively, issued or created pursuant to this section—

- (a) shall be in the form prescribed;
- (b) shall, with all interest thereon, be charged and secured on the revenues of the Board;
- (c) shall bear interest at such rate, and be redeemable at such date, and at such place, as the Board may, with the consent of the Governor, determine;
- (d) may, with the consent of the holder or the registered owner thereof, as the case may be, be paid off at any time before the due date for repayment, at not more than the face value thereof; and
- (e) whether original or not shall rank *pari passu* in point of charge without any preference or priority one over another.

(6) Interest secured by any debentures or inscribed stock issued or created pursuant to this section shall be payable at such times and at such places as the Board determines and specifies in the debentures or inscribed stock.

(7) The Board may at the request of the holder of any debenture or of the registered owner of any inscribed stock issued or created pursuant to this section, in lieu thereof issue to him stock or debentures, as the case may be, in respect of the same loan, and of the same interest.

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(8) For the purpose of making provision to pay off either the whole or a part of any loan raised by the Board pursuant to this section, the Board may, with the consent of the Governor, borrow the money necessary for that purpose before the loan or part thereof becomes payable.

(9) The due payment of moneys borrowed on the security of the revenues of the Board pursuant to this section and the interest thereon is hereby guaranteed by the Treasurer in the name and on behalf of the Crown in right of the State, and any liability of the Crown arising by virtue of this subsection is payable out of moneys in the Public Account as defined in the Audit Act, 1904, which, to the necessary extent, is appropriated accordingly.

(10) The Board shall set aside half-yearly by way of a sinking fund, for the purpose of redeeming any loan raised pursuant to this section, an amount calculated at a rate approved by the Governor and the Treasurer but where after the coming into operation of the Metropolitan Water Supply, Sewerage, and Drainage Act Amendment Act, 1969, the Board raises a loan by the issue of debentures or the creation and issue of inscribed stock pursuant to subsection (4) of this section, the Board is not required to establish and maintain a sinking fund for the purpose of redeeming the loan.

(11) Any trustee, unless expressly forbidden by the instrument, if any, creating the trust, may invest any trust moneys in his hands in any debenture or inscribed stock issued or created pursuant to this section, and the investment shall be deemed to be an investment that is authorised by the Trustees Act, 1962.

(12) Any debenture or inscribed stock issued or created by the Board pursuant to this section is a lawful investment for any money that any body corporate incorporated by or under any Act is authorised or directed to invest, in addition to any other investments expressly provided for the investment of those moneys.

(13) The Board or any officer of the Board shall not receive any notice of a trust, whether express, implied or constructive, in relation to any debenture or inscribed stock issued or created pursuant to this section.

129. [*Repealed by No. 39 of 1963, s. 123.*]

130. [*Repealed by No. 39 of 1963, s. 123.*]

131. [*Repealed by No. 39 of 1963, s. 123.*]

132. (1) The Board shall invest in the name of the Board, in such securities as the Treasurer thinks fit, all moneys set aside pursuant to subsection (10) of section one hundred and twenty-eight of this Act, as a sinking fund and all interest accruing thereon.

Investment
of sinking
fund and
application
of sinking
fund.

Substituted
by No. 39 of
1963, s. 124.

Amended by
No. 8 of
1969, s. 4.

(2) The Board shall—

- (a) from time to time, apply the accumulated sinking fund, in payment of the principal of any loan raised by the Board pursuant to this Part of this Act, not being a loan raised after the coming into operation of the Metropolitan Water Supply, Sewerage, and Drainage Act Amendment Act, 1969, by the issue of debentures or the creation and issue of inscribed stock, when the loan becomes payable; and
- (b) from time to time, apply that fund in the redemption of any debentures or inscribed stock issued or issued and created pursuant to this Part of this Act, before the coming into operation of the Metropolitan Water Supply, Sewerage, and Drainage Act Amendment Act, 1969.

133. [*Repealed by No. 39 of 1963, s. 125.*]

Board to
keep Register
of debentures and
stock.
Substituted
by No. 39 of
1963, s. 128.

134. (1) The Board shall keep or cause to be kept a register of debentures and a register of stock and shall, as soon as practicable after the issue of any debenture or the creation and issue of any stock pursuant to this Part of this Act, cause to be made an entry in the appropriate register of the number, date and amount of the debenture and the names of the purchaser of the stock and the amount of stock purchased by him.

(2) Each register may be inspected at all reasonable times by any person on payment of ten cents for each inspection.

(3) A register is evidence of any matters required or authorised by or under this Act to be inserted therein.

Copies to be
supplied.
Amended by
No. 39 of
1963, s. 127;
No. 113 of
1965, s. 4 (1).

135. Any person shall be entitled to obtain from the Board 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 seventy-five cents, and five cents for every folio of seventy-two words, and any copy or extract so certified shall be admissible in evidence.

136. [*Repealed by No. 39 of 1963, s. 128.*]

Owners of
securities
not respon-
sible for
application
of moneys.

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.

138. [*Repealed by No. 39 of 1963, s. 129.*]

139. [*Repealed by No. 39 of 1963, s. 130.*]

140. [*Repealed by No. 39 of 1963, s. 131.*]

PART X.—ACCOUNTS AND AUDIT.

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

Accounts.
Amended by
No. 39 of
1963, s. 132.

- (a) Of all moneys received and paid by it and of all moneys owing to and by it 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 Board 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.

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

Accounts to
be balanced.
Amended by
No. 39 of
1963, s. 133.

144. (1) The Board 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.

Accounts to
be audited.
Amended by
No. 39 of
1963, s. 134.

(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.

(2a) The Board—

- (a) may, in each year, determine the amount of the depreciation of the works, undertakings and assets vested in the Board under this Act, in respect of that year; and

(b) shall enter in the accounts of the Board in each year, such sums as, in the opinion of the Minister, represent the equivalent of the use of buildings belonging to the Crown in right of the State.

(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.

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.

Board may
make
by-laws.
Amended by
No. 33 of
1955, s. 24;
No. 39 of
1963, s. 135;
No. 14 of
1967, s. 55;
No. 14 of
1968, s. 7.

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

Regulating
Business.

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

Water
reserves.

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

Preventing
pollution.

(2a) Preventing or minimising the pollution of streams and watercourses.

Regulation
bathing.

(2b) The regulation or prohibition of bathing in streams and watercourses.

Preserving
good order
and decency.

(2c) The preservation of good order and decency on streams and watercourses and their banks.

- (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 metropolitan main drainage works, and other property of the Board, and of any water under its jurisdiction or authority. Managing works.
- (4a) Defining and specifying the classes of industry from which liquid trade or factory wastes may be discharged into the sewers and the terms and conditions, whether general in application or applying in any particular case, upon which those wastes may be so discharged, including the fees to be charged in respect thereof. Discharge of trade wastes into sewers.
- (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 Board. Preventing waste, etc.
- (6) The construction, maintenance, cleansing, repair, management, and use of the water works, sewerage works, metropolitan main drainage works, sewers, drains, pipes, metropolitan main drains, and other property of the Board. Construction and use of works.
- (7) Protecting the water works, sewerage works, metropolitan main drainage works, sewers, drains, fixtures, pipes, metropolitan main drains, and fittings from trespass and injury. Protecting water and works.
- (7a) Preventing or minimising interference with the flow of water in, or the silting up of, or injury to, streams, watercourses, and metropolitan main drains, including prohibiting or regulating the depositing in them, or within such distance from them or any part of them as the by-laws prescribe, of anything likely to cause the interference, silting up, or injury. Preventing interference with streams, etc.

- The use of pipes, drains, etc. (8) Regulating the purposes for which any pipes, drains, sewers, or metropolitan main drains shall be used or applied.
- Ventilators. (9) Regulating the dimensions, material, form, construction, and arrangement of, and the maintenance or alteration of ventilators for pipes, drains, sewers, or metropolitan main drains.
- Disinfection. (10) Regulating the disinfection and cleansing of or otherwise dealing with any substance or matter before the discharge thereof into any drain or sewer.
- Fees for tapping mains or connecting with sewers. (11) Prescribing the fees payable for tapping the mains or connecting with the sewers or metropolitan main drains of the Board.
- Rates. (12) Making, levying, and collecting water rates, sewerage and metropolitan main drainage rates, and fixing a minimum rate to be paid in respect of land under a prescribed value.
- Quantity of water. (13) Prescribing the quantity of water which a consumer may take in respect of any rates for any given period.
- 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.

- (18) Fixing the level beyond which water supplied from the works may not be allowed to rise at any particular place within the Area. Fixing levels of water.
- (19) Compelling persons using water supplied by the Board to keep their pipes, fixtures and fittings in proper repair. Repair of fittings.
- (20) Prohibiting any alteration of or interference with any meter, pipes, drain, fixtures, or fittings, without the consent of or notice to the Board; and prohibiting the sale by any person to whom water is supplied by the Board of water supplied, except with the authority, in writing of the Board. Prohibiting alteration of fittings.
- (21) Enabling the Board to repair such pipes, fixtures or fittings so as to prevent waste of water, and to recover the cost of such repairs from the owner or occupier of the land. Enabling Board to repair fittings at cost of consumer.
- (22) Prohibiting any mode of arrangement, and the use of any fixtures or fittings which may, in the opinion of the Board, cause or tend to cause waste, misuse, undue consumption, fouling, or contamination of the water. Arrangement of fittings.
- (23) The inspection of all pipes, sewers, drains, fixtures, fittings, and meters. Inspection.
- (24) Regulating the examination and licensing of persons to perform work in connection with meters, pipes, sewers, drains, fixtures, and fittings, the cancelling of such licenses, and prohibiting any other than licensed persons from fixing, altering, or repairing meters, pipes, sewers, drains, fixtures, or fittings connected with the works of the Board. 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 Board. Meter rent.

Debentures
and
Inscribed
Stock.

(26a) Regulating the issue of debentures and the issue and creation of inscribed stock under Part IX of this Act, the payment of brokerage in connection with the making, procuring, negotiation and obtaining any loan of any money borrowed under that Part, providing for the transfer and registration of the transfer of those debentures or inscribed stock, the replacement of lost or defaced debentures or inscribed stock and generally providing for any matter not inconsistent with the provisions of this Act with respect to or in connection with those debentures or inscribed stock.

Forms.

(27) Prescribing forms to be used for the purposes of this Act, and modifying any of the forms contained in the Schedules.

Generally.

(28) And for any other purposes relating to the administration of this Act and the exercise of the powers vested in the Board.

Limitation
of time for
complaint
of certain
offences.

Added by
No. 33 of
1955, s. 25.
Amended by
No. 39 of
1963, s. 136;
No. 14 of
1967, s. 56.

146A. Where under paragraph (24) of section one hundred and forty-six of this Act by-laws are made and are in force prohibiting any other than licensed persons from fixing, altering, or repairing meters, pipes, sewers, drains, fixtures, or fittings connected with the works of the Board, the time limited for making complaint of an offence against the prohibition is one year from the time when the matter of the complaint arose.

Penalties
for breach
of by-laws.
Amended by
No. 33 of
1955, s. 26;
No. 39 of
1963, s. 137;
No. 113 of
1965, s. 4 (1).

147. Every by-law—

(1) May impose a penalty not exceeding one hundred dollars for breach thereof, and, in the case of a continuing breach, a further penalty not exceeding ten dollars for each day the offence continues after notice thereof has been given by or on behalf of the Board to the offender; and

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

147A. (1) A by-law made under paragraph (5) of section one hundred and forty-six of this Act, whether it is made before or after the coming into operation of the Metropolitan Water Supply, Sewerage, and Drainage Act Amendment Act, 1956, is valid notwithstanding that it confers on the Board power from time to time by order published at least once in a daily newspaper circulating in the Metropolitan Water, Sewerage and Drainage Area—

Validity of
by-law
conferring
on Board
power to
impose water
restrictions
by order.
Added by
No. 27 of
1956, s. 2.
Amended by
No. 39 of
1963, s. 133.

- (a) to prohibit, regulate, or impose restrictions on, the use or consumption of water by any person or class of person, within the whole or any portion of the Area, for any purpose generally or for such purpose or purposes as are specified in the order, or for any period or periods; or
- (b) to exempt wholly or partially any portion of the Area or any person or class of person or any place or institution or class of place or class of institution from the operation of the whole or part of the order.

(2) (a) Where a by-law confers on the Board power to make orders as provided in subsection (1) of this section, the Board may make and cause to be published an order or orders under and in accordance with that by-law.

(b) An order so made and published may be cancelled or varied by a subsequent order published at least once in a daily newspaper circulating in the Area.

(3) An order referred to in subsection (1) or in subsection (2) of this section shall have effect on or from such date, not being prior to the date of its publication, as is specified in the order; but where

no date is so specified or a date prior to the date of publication is specified, the order shall have effect on or from and including the date of its first publication as provided in this section.

(4) A person using or consuming water in contravention of an order made and published under this section is deemed to commit an offence in breach of the by-law pursuant to which the order is made.

(Cf. Interpretation Act, 1918, s. 16 (1) (c) and (f).)

(5) The cancellation or variation of an order does not affect any penalty or punishment incurred, imposed or liable to be incurred or imposed prior to the cancellation or variation, or any investigation or legal proceeding in respect of such a penalty or punishment, notwithstanding the provisions of section eleven of The Criminal Code.

(6) For the purposes of this section a person who allows water to flow or leak from any pipe or other fittings used for or in connection with the supply of water to or in any premises shall be regarded as a person using water.

148. [*Repealed by No. 33 of 1955, s. 27.*]

PART XII.—GENERAL PROVISIONS.

Person to give notice of becoming or ceasing to be owner of rateable land.
Added by No. 14 of 1967, s. 57.

148A. Where, after the coming into operation of the Metropolitan Water Supply, Sewerage and Drainage Act Amendment Act, 1967, a person—

- (a) becomes or ceases to be the owner; or
- (b) not being the owner, becomes or ceases to be the occupier,

of any land rateable under this Act, he shall within a period of fourteen days of becoming or ceasing to be such owner or occupier, as the case may be, give to the Board notice of the fact.

Notices.

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

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

Notices and demands, how served. Amended by No. 39 of 1963, s. 139.

- (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.

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

When deemed to have been given.

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

When name of owner or occupier unknown

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

Service on Corporations.

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.

152. Every order, summons, notice, or other document requiring authentication by the Board may be sufficiently authenticated, without the common seal, if signed by the Chairman or the General Manager of the Board.

Notices may be authenticated. Amended by No. 39 of 1963, s. 140; No. 14 of 1967, s. 58.

Limitation
of time
for taking
proceedings.
Added by
No. 14 of
1967, s. 59.

152A. Except as provided in section one hundred and forty-six A of this Act and notwithstanding anything in any other Act, the time limited for making complaint of an offence against this Act is two years from the time when the matter of complaint arose.

Saving of
civil remedy.
Amended by
No. 39 of
1963, s. 141.

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

Recovery of
value of
water
misused,
etc.
Amended by
No. 39 of
1963, s. 142.

154. When any water supplied under this Act has been wasted, misused, or unduly consumed, the Board may recover the value thereof, as a debt due to it 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 Board may possess, and to the liability to any penalty which such person has incurred.

Contribu-
tion be-
tween owner
and occupier.

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.

Obstructing
Board or
officers in
performance
of duty.
Amended by
No. 39 of
1963, s. 143;
No. 14 of
1967, s. 60.

156. Every person who obstructs the Board, or any person employed by the Board, in the performance of any act or thing which it or he is 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 eighty dollars.

Penalty for
refusing to
give up
possession
of works.
Amended by
No. 39 of
1963, s. 144;
No. 113 of
1965, s. 4. (1).

157. Any person having charge of any works, the property of the Board, who refuses, on lawful demand, to give up peaceable and quiet possession of the same to any person entitled to possession under the provisions of this Act, shall be guilty of

a misdemeanour, and shall be liable to a penalty not exceeding four hundred dollars, and to be imprisoned for any period not exceeding twelve months.

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

Offenders may be arrested. Amended by No. 39 of 1963, s. 145.

158A. A person who is guilty of an offence against this Act, where no other penalty is expressly provided for the offence, is liable on conviction to a penalty of not more than one hundred dollars.

General penalty. Added by No. 14 of 1967, s. 61.

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 Board or any officer of the Board or person authorised by the Board.

Summary proceedings for offences and recovery of penalties. Amended by No. 39 of 1963, s. 146.

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

Application of penalties. Amended by No. 39 of 1963, s. 147.

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

Board may be represented by officer. Amended by No. 39 of 1963, s. 148.

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

163. Any person appointed under the hand of the Board 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. Amended by No. 39 of 1963, s. 149.

Property of
Board
not to be
taxed.
Amended by
No. 39 of
1963, s. 150.

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

Proof of
ownership or
occupancy.

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

- (1) Evidence that the person proceeded against is rated as owner or occupier of any land;
or
- (2) Evidence by the certificate, in writing, of—
 - (a) The Registrar of 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 registration 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.
Amended by
No. 14 of
1967, s. 62.

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

Metropolitan Water Supply, Sewerage, and Drainage.

Section 87. Amended by No. 71 of 1960, s. 17; No. 39 of 1963, s. 151.

FOURTH SCHEDULE.

THE METROPOLITAN WATER, SEWERAGE, AND DRAINAGE AREA.

.....District.

Notice of Appeal.

To the Appeal Board and to the Metropolitan Water Supply, Sewerage, and Drainage Board.

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

Land Rated.

.....

Grounds of Appeal.

.....

Dated the _____ day of _____, 19 .

(Signed)

Name

Address

FIFTH SCHEDULE.

THE METROPOLITAN WATER, SEWERAGE, AND DRAINAGE AREA.

.....District.

Notice is hereby given that the Appeal Board has appointed the _____ day of _____, 19 , at o'clock in the _____ noon, at _____, to hear the undermentioned appeals from the valuation in the Rate Book for the year 19 .

Appeals.

.....

Dated the _____ day of _____, 19 .

SIXTH SCHEDULE.

THE METROPOLITAN WATER, SEWERAGE, AND DRAINAGE AREA.

.....District.

Section 88. Amended by No. 71 of 1960, s. 19; No. 39 of 1963, s. 152.

*Metropolitan Water Supply, Sewerage,
and Drainage.*

Notice of Appeal from the Appeal Board to the Local
Court against Valuation.

To the Metropolitan Water Supply, Sewerage, and Drainage
Board and the Clerk of the Local Court, held at

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

Description of Land.

.....
.....

Grounds of Appeal.

.....
.....

Dated the day of , 19 .

(Signed)

Name

Address

SEVENTH SCHEDULE.

METROPOLITAN WATER SUPPLY, SEWERAGE, AND
DRAINAGE ACT, 1909, AND AMENDMENTS.

Section 114.
Amended by
No. 39 of
1963, s. 153;
No. 113 of
1965, s. 4 (1).

.....*District.*

Notice of Intention to Let Land for
Non-payment of Rates.

To

Notice is hereby given that the sum of dollars
and cents is now due and unpaid to the
Metropolitan Water Supply, Sewerage, and Drainage Board
for water rates [*or water supplied or sewerage rates, as the
case 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 Metropolitan Water Supply,
Sewerage, and Drainage Board will take possession of and
lease the said land, under the provisions of the Metropolitan
Water Supply, Sewerage, and Drainage Act, 1909, and
amendments.

Metropolitan Water Supply, Sewerage,
and Drainage Board.

Office of the Metropolitan Water Supply, Sewerage, and
Drainage Board, Perth,....., 19.....

Metropolitan Water Supply, Sewerage,
and Drainage.

Section 114.
Amended by
No. 39 of
1963, s. 154;
No. 113
of 1965,
s. 4 (1).

EIGHTH SCHEDULE.

METROPOLITAN WATER SUPPLY, SEWERAGE, AND
DRAINAGE ACT, 1909, AND AMENDMENTS.

.....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
dollars and cents 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 Metro-
politan Water Supply, Sewerage, and Drainage Board 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 abovementioned Act.

Metropolitan Water Supply, Sewerage,
and Drainage Board.

Office of the Metropolitan Water Supply, Sewerage, and
Drainage Board, Perth,, 19.....

Section 114.
Amended by
No. 39 of
1963, s. 155.

NINTH SCHEDULE.

METROPOLITAN WATER SUPPLY, SEWERAGE, AND
DRAINAGE ACT, 1909, AND AMENDMENTS.

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

Metropolitan Water Supply, Sewerage,
and Drainage Board.

Office of the Metropolitan Water Supply, Sewerage, and
Drainage Board,, 19.....

TENTH SCHEDULE.

Section 118.
Amended by
No. 39 of
1963, s. 156.

METROPOLITAN WATER SUPPLY, SEWERAGE, AND
DRAINAGE ACT, 1909, AND AMENDMENTS.

.....District.

Certificate of Rates Unpaid.

This is to certify that, under the provisions of the Metropolitan Water Supply, Sewerage, and Drainage Act, 1909, and amendments, the sum of _____ dollars and _____ cents 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 above-mentioned Act, and after the expiration of three months from the date of such notice, unless you receive from the Metropolitan Water Supply, Sewerage, and Drainage Board 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 ____ .
Metropolitan Water Supply, Sewerage,
and Drainage Board.

To the Clerk of the Local Court at _____ .

ELEVENTH SCHEDULE.

Section 118.
Amended by
No. 39 of
1963, s. 157,
No. 113 of
1965, s. 4 (1).

METROPOLITAN WATER SUPPLY, SEWERAGE, AND
DRAINAGE ACT, 1909, AND AMENDMENTS.

Notice of Sale.

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

*Metropolitan Water Supply, Sewerage,
and Drainage.*

of the Metropolitan Water Supply, Sewerage, and Drainage Act, 1909, and amendments, the sum of _____ dollars cents 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 Board 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 execution accordingly at the expiration of three months from the date hereof unless the above-mentioned 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 _____ .

Section 119.

TWELFTH SCHEDULE.

Amended by
No. 39 of
1963, s. 158,
No. 113 of
1965, s. 4.(1).

METROPOLITAN WATER SUPPLY, SEWERAGE, AND
DRAINAGE ACT, 1909, AND AMENDMENTS.

Warrant of Execution.

In the Local Court of }
Western Australia. } No. of Warrant _____ of 19 _____ .
Held at _____ }

Whereas under the provisions of the Metropolitan Water Supply, Sewerage, and Drainage Act, 1909, and amendments, the Metropolitan Water Supply, Sewerage, and Drainage Board has certified that the sum of _____ dollars cents 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

*Metropolitan Water Supply, Sewerage,
and Drainage.*

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 newspaper 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 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 [<i>or as the case may be</i>] and Interest before Notice of Sale
Amount of Arrears and Water Rates [<i>or as the case may be</i>] 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 10 a.m. to 3.30 p.m., except on Saturdays, Sundays and holidays.

THIRTEENTH SCHEDULE.

[Deleted by No. 39 of 1963, s. 159.]