



Western Australia

# **Metropolitan Water Supply, Sewerage, and Drainage Act 1909**

---

As at 03 Sep 2012

Version 10-e0-01

Extract from [www.slp.wa.gov.au](http://www.slp.wa.gov.au), see that website for further information



# Metropolitan Water Supply, Sewerage, and Drainage Act 1909

---

## CONTENTS

---

### **Part I — Preliminary**

1.	Short title	2
2.	Commencement	2
5.	Terms used	2

### **Part II — The Area**

6.	Constitution of Area	6
7.	Altering etc. boundaries of Area	6

### **Part IV — Water reserves**

13.	Water reserves and catchment areas, constitution of etc.	7
14.	Diverting etc. water, Corporation's powers as to	7
15.	Minister's power to take land	8
16.	Unauthorised taking etc. of water, offence	8
17.	Pollution of water, Minister's powers to prevent	9

### **Part V — Vesting of property and the construction and maintenance of works**

31.	Sewers, Corporation's powers to alter etc.	10
32.	Sewers, Corporation's duties to keep clear etc.	10
33.	Sewers, Corporation's powers to ventilate etc.	11

**Part VI — Water supply**

**Division 1 — Supply and distribution of water**

36.	Land subject to water supply charge entitled to supply	12
37.	Supply to s. 36 land, Corporation to comply with request for	12
38.	Supply to other land	12
39.	Meters, installation and use of and charges for	13
40.	Meter's record is <i>prima facie</i> evidence of water supplied	13
41.	Stopping supply, Corporation's powers as to	14
42.	Groups of houses, supply to	15
43.	Supply to land outside Area	15
45.	Fire hydrants, installation and abolition of etc.	16

**Division 2 — Protection of works and prevention of waste**

47.	Waste of water, duty to repair pipes etc. to prevent	18
49.	Entry powers etc. to ascertain waste of water etc.	18
50.	Corporation's fittings etc., protection of	19
50A.	No building etc. over water main without Corporation's consent	19
51.	Entry powers to fix fittings on land	20
52.	Unauthorised use etc. of fittings, offence	20
53.	Leaving fittings unrepaired, offence	21
54.	Breaking valves etc., wasting water etc., offence	21
55.	Illegal consumption etc. of water, offence	22
56.	Taking water fraudulently, offence	22
56A.	Offender under s. 52, 53, 54, 55 or 56 may be ordered to pay costs of investigation etc.	23
56B.	Evidentiary provisions for s. 52 to 55	24
57.	Stopping supply to person contravening Act or by-laws	24

**Division 3 — Protection of underground water**

57A.	Underground Water Pollution Control Areas, constituting	25
57B.	By-laws for pollution areas	25
57C.	Dispensation from by-laws, Minister may grant	26
57D.	Refusal of dispensation etc., review by SAT of	26

<b>Division 4 — Public Water Supply Areas</b>		
57E.	Public Water Supply Areas, constituting	27
57EA.	Underground water, Corporation may take	28
57F.	Wells to be licensed	28
57G.	Application for, issue and effect of licences for wells	29
57H.	Non-compliance with terms etc. of s. 57G licence, Minister's powers as to	32
57I.	Licensed wells to be maintained; suspension etc. of licences	32
<b>Part VII — Sewerage</b>		
58.	Land owners may be required to connect property sewers to sewer	34
59.	Corporation's powers if land owner does not construct property sewer as required	34
60.	Land owners liable for cost of property sewers	35
61.	Agreement to pay Corporation for property sewers etc. in instalments	35
61A.	Sewer for land not liable for sewerage charge, Corporation may construct	36
63.	Property sewers to be repaired etc.	36
64.	Corporation to be notified before work on property sewer etc. commences	37
65.	Inspection powers etc. as to property sewers	38
66.	No building etc. over sewer without Corporation's consent	39
67.	Inspection powers as to joined property sewers	40
68.	Unauthorised use of property sewer, offence	40
69.	Breaking etc. sewers etc., offence	40
70.	Common property sewers, Corporation's powers as to etc.	41
<b>Part VIII — Liability for and recovery of water charges</b>		
<b>Division 1 — General</b>		
103.	Who is liable for charges	43
104.	Payment of charges by mortgagee, effect of	44
105.	Certain charges to be apportioned between occupier and succeeding occupier	44

Contents

---

105A.	Apportionment of certain charges not to affect entitlement to water in respect of charges paid	45
105B.	Apportionment of water supplied	45
106.	Unsuccessful recovery action no bar to action against another person liable	46
109.	How charges may be recovered; charges etc. are a charge on estate of liable person	46
110.	Corporation's records, evidentiary provisions as to	47
	<b>Division 2 — Power to take possession and lease land</b>	
112.	Application and expiry of this Division	47
113.	Corporation's power to take and lease land where charges are in arrears	48
114.	Procedure for taking and leasing land	49
115.	Release of land after payment of arrears and demand	50
116.	Rent for leased land, application of by Corporation	51
117.	Land taken, when it vests in Corporation	51
	<b>Part XI — By-laws</b>	
146.	Minister may make by-laws	53
	<b>Part XII — General provisions</b>	
148.	Corporation to be notified before building etc. commences	55
149.	Notices etc., form of	56
150.	Notices etc., service of	56
151.	Notices etc. bind persons claiming under owner etc.	57
152.	Occupier's rights; apportioning liability for charges	57
152A.	Limitation period for prosecutions	58
153.	Civil remedies not affected by convictions etc.	58
154.	Value of water wasted etc., Corporation may recover	58
155.	Occupier may recover certain money from owner	59
156.	Obstructing officials performing duty	59
157.	Refusing to give up possession of certain property, offence	59
158.	Arrest powers	60
158A.	General penalty	60

159.	Prosecutions, commencement of etc.	60
161.	Corporation may be represented by officer	61
165.	Proof of ownership or occupancy	61
166.	<i>Local Government Act 1995</i> , suspending certain provisions of	62

**Schedule 9 — Notice of possession**

**Notes**

Compilation table	64
Provisions that have not come into operation	70

**Defined Terms**





Western Australia

## **Metropolitan Water Supply, Sewerage, and Drainage Act 1909**

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

*[Long title amended by No. 39 of 1963 s. 3; No. 37 of 1982  
s. 4.]*

## Part I — Preliminary

### 1. Short title

This Act may be cited as the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909*<sup>1</sup>.

### 2. Commencement

This Act shall come into operation on a day, not later than 1 May 1910, to be fixed by proclamation<sup>1</sup>.

*[Section 2 amended by No. 14 of 1967 s. 3.]*

*[3. Deleted by No. 25 of 1985 s. 53.]*

*[4. Omitted under the Reprints Act 1984 s. 7(4)(f) and (g).]*

### 5. Terms used

(1) In this Act, unless the context otherwise requires —

***aquifer*** means a porous geologic formation that bears water;

***Area*** means the Metropolitan Water, Sewerage, and Drainage Area constituted under this Act;

***artesian bore*** means a bore in which the level of water rises above the top of the aquifer in which the water is encountered;

***catchment area*** means all land over, through, or under which any water flows, runs, or percolates directly or indirectly into any reservoir erected or used in connection with any water supply;

***CEO*** means the chief executive officer of the Department;

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

***Department*** means the department of the Public Service principally assisting in the administration of this Act;

***former Authority*** means the Water Authority of Western Australia under the *Water Authority Act 1984* before the commencement of

Part 2 of the *Water Agencies Restructure (Transitional and Consequential Provisions) Act 1995* <sup>1,2</sup>;

**former Metropolitan Authority** means the Metropolitan Water Authority under the *Metropolitan Water Authority Act 1982*;

**officer**, in relation to the Corporation, means a member of the staff of the Corporation engaged under section 15 of the *Water Corporation Act 1995*;

**pollution area** means an Underground Water Pollution Control Area constituted under section 57A;

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

**Registrar of Deeds** means the Registrar of Deeds and Transfers under the *Registration of Deeds Act 1856*;

**sewerage charge**, in relation to land, means a water charge in respect of that land relating to the provision of sewerage under this Act;

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

**water charge**, in relation to land, means a charge made under the *Water Agencies (Powers) Act 1984* in respect of that land relating to a water service provided under this Act or the *Metropolitan Water Authority Act 1982*;

**water supply charge**, in relation to land, means a water charge in respect of that land relating to the provision of a water supply under this Act;

**watercourse** means —

- (a) any river, creek, stream or brook, whether artificially improved or altered or not; or

**s. 5**

---

- (b) any conduit that wholly or partially diverts a river, creek, stream or brook from its natural course and forms part of that river, creek, stream or brook; or
- (c) any natural collection of water into, through, or out of which any thing referred to in paragraph (a) or (b) flows, whether artificially improved or altered or not,

in which water flows or is contained whether permanently, intermittently or occasionally, together with the bed and banks of any thing referred to in paragraph (a), (b) or (c);

**waterworks** means all reservoirs, storage dams, weirs, wells, bores, pumps, pumping stations and machinery, tanks, aqueducts, tunnels, buildings, engines, pipes, or other works for the supply, treatment, and distribution of water, and all lands acquired, held, or used for the purposes of this Act in relation to water supply.

- (2) A reference in sections 37, 38, 43, 61 or 61A to an occupier shall be construed as a reference to that occupier acting with the consent of the owner.
- (3) The provisions of this Act are incorporated with, and may be read as one with, the *Metropolitan Water Authority Act 1982*, and a reference to **this Act** shall be read as including a reference to that Act and the *Water Agencies (Powers) Act 1984* or any subsidiary legislation made thereunder.
- (4) A reference in this Act to —
  - (a) by-laws, shall be construed as a reference to any by-laws made by the former Board, the former Metropolitan Authority, the former Authority or the Minister; and
  - (b) regulations, shall be construed as a reference to regulations made by the Governor,

for the purposes of this Act whether made under this Act, the *Metropolitan Water Authority Act 1982* or the *Water Agencies (Powers) Act 1984*.

- (5) Terms not otherwise assigned a meaning under this section but —
- (a) referred to in section 3 of the *Water Agencies (Powers) Act 1984* as having a meaning assigned for the purposes of a relevant Act; or
  - (b) assigned a meaning for the purposes of the *Metropolitan Water Authority Act 1982*,

have that meaning in and for the purposes of this Act.

*[Section 5 amended by No. 33 of 1955 s. 3; No. 39 of 1963 s. 5; No. 14 of 1967 s. 5; No. 11 of 1970 s. 3; No. 43 of 1972 s. 4; No. 59 of 1977 s. 3; No. 3 of 1979 s. 3; No. 63 of 1981 s. 4; No. 37 of 1982 s. 5; No. 100 of 1982 s. 4; No. 25 of 1985 s. 55; No. 24 of 1987 s. 20; No. 73 of 1995 s. 95 and 111; No. 14 of 1996 s. 4; No. 25 of 2005 s. 37; No. 38 of 2007 s. 33.]*

**Part II — The Area**

*[Heading amended by No. 14 of 1967 s. 6.]*

**6. Constitution of Area**

- (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) deleted]*

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

*[Section 6 amended by No. 33 of 1955 s. 4; No. 14 of 1967 s. 7; No. 100 of 1982 s. 5.]*

**7. Altering etc. boundaries of Area**

The Governor may, by Order in Council, from time to time alter or extend the boundaries of the Area.

*[Section 7 inserted by No. 100 of 1982 s. 6.]*

*[Part III: s. 9-12, 12A-12I deleted by No. 37 of 1982 s. 6; s. 8 deleted by No. 73 of 1995 s. 96.]*

## Part IV — Water reserves

### 13. Water reserves and catchment areas, constitution of etc.

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

- (a) constitute and define the boundaries of any water reserve or catchment area and may vest the water reserve or catchment area in the Minister; and
- (b) alter the boundaries of any water reserve or catchment area; and
- (c) describe the boundaries of a water reserve or catchment area as existing for the time being; and
- (d) unite 2 or more water reserves or 2 or more catchment areas; and
- (e) abolish any water reserve or catchment area.

*[Section 13 inserted by No. 14 of 1967 s. 10; amended by No. 25 of 1985 s. 57; No. 73 of 1995 s. 108; No. 38 of 2007 s. 50.]*

### 14. Diverting etc. water, Corporation's powers as to

- (1) Subject to subsection (2), the Corporation may divert, intercept, and store all water coming from the watercourses and other sources within the boundaries of any such reserve or catchment area, and alter the course of any watercourse, and may take any water found on or under such land.
- (2) The Corporation shall not exercise the powers conferred by subsection (1) in relation to water to which section 5C of the *Rights in Water and Irrigation Act 1914* applies, except under a licence or right granted or conferred under Part III of that Act.

*[Section 14 amended by No. 39 of 1963 s. 21; No. 25 of 1985 s. 57; No. 73 of 1995 s. 97; No. 49 of 2000 s. 85; No. 38 of 2007 s. 34.]*

**s. 15**

---

**15. Minister's power to take land**

The Minister may take any alienated land within the boundaries of any water reserve or catchment area under and subject to the provisions of Part 9 of the *Land Administration Act 1997*.

*[Section 15 amended by No. 39 of 1963 s. 22; No. 25 of 1985 s. 57; No. 73 of 1995 s. 110; No. 31 of 1997 s. 142; No. 25 of 2005 s. 38; No. 38 of 2007 s. 50.]*

**16. Unauthorised taking etc. of water, offence**

Any person who, other than with the authority of the Minister or under another written law —

- (a) diverts, or causes the diversion of, water coming from any watercourse or other source within a water reserve or catchment area; or
- (b) takes, or causes the taking of, any water found on or under land comprising a water reserve or catchment area; or
- (c) does, or causes the doing of, any act that may diminish the quantity or injure the quality or purity of water coming from any watercourse or other source within a water reserve or catchment area; or
- (d) alters, or causes the alteration of, the course of any watercourse within a water reserve or catchment area,

commits an offence against this Act.

Penalty: Not exceeding \$100 for each day during which that water is so diverted or taken, or the quantity, quality or purity of that water is so reduced, or the course of that watercourse is so altered.

*[Section 16 inserted by No. 83 of 1976 s. 4; amended by No. 25 of 1985 s. 57; No. 73 of 1995 s. 98 and 108; No. 38 of 2007 s. 35.]*



**17.      Pollution of water, Minister's powers to prevent**

- (1) For preventing the pollution of water within or under a water reserve or catchment area, the Minister has all the powers and authority of a local government, including the power to make and enforce local 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 government.

*[Section 17 amended by No. 39 of 1963 s. 24; No. 83 of 1976 s. 5; No. 25 of 1985 s. 57; No. 73 of 1995 s. 108; No. 14 of 1996 s. 4; No. 38 of 2007 s. 50.]*

**Part V — Vesting of property and the construction and maintenance of works**

*[18. Deleted by No. 39 of 1963 s. 25.]*

*[19-23. Deleted by No. 100 of 1982 s. 7.]*

*[23A-23C. Deleted by No. 59 of 1977 s. 9.]*

*[24-30. Deleted by No. 100 of 1982 s. 7.]*

**31. Sewers, Corporation's powers to alter etc.**

- (1) The Corporation may open the ground and change the level of or otherwise amend or enlarge any sewer lying under any public or private street or place within the district for better communicating with the main sewers.
- (2) No person shall, by means of any such alteration, amendment, or enlargement, be deprived of the use and enjoyment of any property sewer which he shall be entitled to use; but the Corporation shall, at its own cost and charges, so construct and alter any such property sewer as to render the same as effectual for the purposes for which it was intended as any such property sewer may be at the time of such alteration.

*[Section 31 amended by No. 33 of 1955 s. 12; No. 39 of 1963 s. 37; No. 100 of 1982 s. 8; No. 25 of 1985 s. 58; No. 73 of 1995 s. 109; No. 19 of 2010 s. 51.]*

**32. Sewers, Corporation's duties to keep clear etc.**

The Corporation shall cause all sewers 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 Corporation 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 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.

*[Section 32 amended by No. 39 of 1963 s. 38; No. 100 of 1982 s. 9; No. 25 of 1985 s. 58; No. 73 of 1995 s. 109.]*

**33. Sewers, Corporation's powers to ventilate etc.**

- (1) For the purposes of ventilation, the Corporation may cause any ventilating shaft, pipe, or tube for any sewer or property sewer to be attached to any wall of any building.
- (2) The mouth of every such shaft, pipe, or tube shall be at least 1.80 m higher than any window or door situate within a distance of 9 m therefrom.
- (3) For the purposes of ventilation the Corporation may make use of the chimney of any public building or of any factory, or of any tramway building as a ventilating shaft or tube.
- (4) No ventilating shaft for the purpose of ventilating any sewer shall be attached to any private residence.

*[Section 33 amended by No. 39 of 1963 s. 39; No. 94 of 1972 s. 4; No. 100 of 1982 s. 10; No. 25 of 1985 s. 58; No. 73 of 1995 s. 109; No. 19 of 2010 s. 51.]*

*[34. Deleted by No. 110 of 1985 s. 23.]*

*[35. Deleted by No. 38 of 2007 s. 36.]*

## **Part VI — Water supply**

### **Division 1 — Supply and distribution of water**

*[Heading inserted by No. 19 of 2010 s. 47(3).]*

**36. Land subject to water supply charge entitled to supply**

The owner or occupier of land in respect of which a water supply charge has been made for a period is entitled, as far as practicable and subject to this Act and the *Water Agencies (Powers) Act 1984*, to have water supplied to the land in that period by the Corporation.

*[Section 36 inserted by No. 24 of 1987 s. 21; amended by No. 73 of 1995 s. 109 and 111.]*

**37. Supply to s. 36 land, Corporation to comply with request for**

Upon such terms as it thinks fit and are agreed upon, on receiving from the owner or occupier of any land referred to in section 36 a written request for a supply of water, the Corporation 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.

*[Section 37 amended by No. 39 of 1963 s. 43; No. 83 of 1976 s. 13; No. 100 of 1982 s. 12; No. 25 of 1985 s. 59; No. 24 of 1987 s. 22; No. 73 of 1995 s. 109.]*

**38. Supply to other land**

- (1) The owner or occupier of land not being land referred to in section 36 may, in writing, request the Corporation to supply water.
- (2) In such case the Corporation may, if it thinks fit and upon such terms as it thinks fit and as are agreed upon, comply with the request, and provide, lay down, and fix all necessary pipes and fittings for supplying water to such land.

*[Section 38 amended by No. 39 of 1963 s. 44; No. 100 of 1982 s. 13; No. 25 of 1985 s. 59; No. 24 of 1987 s. 23; No. 73 of 1995 s. 109.]*

**39. Meters, installation and use of and charges for**

- (1) The Corporation 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 Corporation 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 Corporation may charge the prescribed rent for the use of the meter, and the by-laws may prescribe a charge for fixing, removing, or replacing it and its fittings whenever in the opinion of the Corporation necessary, except that, in respect of each separately assessed piece of land on which there is at least one private residence, one meter of the prescribed size shall be free of any such rent or other such charge.

*[Section 39 amended by No. 39 of 1963 s. 45; No. 25 of 1985 s. 59; No. 24 of 1987 s. 24; No. 73 of 1995 s. 100 and 109.]*

**40. Meter's record is *prima facie* evidence of water supplied**

- (1) Whenever a meter is used —
  - (a) 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
  - (b) a certificate purporting to be signed by an officer of the Corporation 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.
- (2) In case of dispute a test shall be made by the Corporation, the cost of which shall be borne by the party found to be in error.

*[Section 40 amended by No. 39 of 1963 s. 46; No. 25 of 1985 s. 59; No. 73 of 1995 s. 109; No. 19 of 2010 s. 51.]*

*[40A. Deleted by No. 24 of 1987 s. 25.]*

**41. Stopping supply, Corporation's powers as to**

- (1) The Corporation may turn or cut off or reduce the available rate of flow of the water supply to any land —
  - (a) if the land to which water is supplied is unoccupied; or
  - (b) when any water supply charges remain unpaid for 30 days after they become due; or
  - (c) when any person refuses or neglects, after demand, to pay all water supply charges due and payable by that person to the Corporation; 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.
- (2) Turning or cutting off or reducing the available rate of flow of the water supply to land shall be a cumulative remedy for enforcing payment of moneys referred to in subsection (1), and shall not relieve the owner or occupier from liability in respect thereof.
- (3) Where under this section the Corporation has turned or cut off or reduced the available rate of flow of the water supply to land, the Corporation may, before restoring the water supply, require payment of the amount of such fees as the Corporation may from time to time determine in respect of —
  - (a) the turning or cutting off or reduction; and
  - (b) the restoration of the water supply.
- (4) Where prior to 30 October 1981 the former Board reduced the available rate of flow of the water supply to land or demanded and received payment of any amount of money in respect of turning or cutting off or reducing the available rate of flow of the water supply to land or in respect of restoring the water supply to land, such reduction shall be deemed to have been

lawfully effected and such money shall be deemed to have been lawfully demanded and received.

*[Section 41 amended by No. 39 of 1963 s. 47; No. 72 of 1981 s. 2; No. 25 of 1985 s. 59 and 61; No. 110 of 1985 s. 25; No. 24 of 1987 s. 26; No. 73 of 1995 s. 109.]*

**42. Groups of houses, supply to**

The Corporation may supply a group of dwelling-houses by means of a stand-pipe or other prescribed fittings, and the Corporation shall be entitled to receive and recover water supply charges 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.

*[Section 42 amended by No. 39 of 1963 s. 48; No. 25 of 1985 s. 59; No. 24 of 1987 s. 27; No. 73 of 1995 s. 109.]*

**43. Supply to land outside Area**

- (1) The owner or occupier of land not situated within the Area may request the Corporation to supply water to such land.
- (2) In each case the Corporation 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.
- (3) Any land to which the Corporation 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.
- (4) 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 Corporation.

*[Section 43 amended by No. 39 of 1963 s. 49; No. 25 of 1985 s. 59; No. 73 of 1995 s. 109; No. 19 of 2010 s. 51.]*

**[44.]** *Deleted by No. 41 of 1951 s. 4(3).]*

**45. Fire hydrants, installation and abolition of etc.**

- (1) In this section, unless the context requires otherwise —
- Authority* means the Fire and Emergency Services Authority of Western Australia established by section 4 of the *Fire and Emergency Services Authority of Western Australia Act 1998*;
- 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* <sup>1</sup>;
- re-instatement* means the filling in of ground opened up and the re-instating and making good of the paving of any street broken up in the course of installing or abolishing a fire hydrant, or keeping a fire hydrant in effective order.
- (2) Subject to the provisions of the succeeding subsections of this section, the Corporation shall fix hydrants upon the main or other pipes within the Area, or abolish fire hydrants.
- (3) The Authority may request the Corporation to instal or abolish a fire hydrant at such location in a fire district as the Authority specifies.
- (4) A local government may request the Corporation to instal or abolish a fire hydrant at such location in the district of the local government elsewhere than in a fire district as the local government specifies.
- (5) So soon after receiving the request as is reasonably practicable, the Corporation shall comply with the request.
- (6) The Corporation shall keep all fire hydrants in the Area in effective order.
- (7) The Corporation on installing, abolishing, or keeping a fire hydrant in effective order, shall render to the Authority, where the fire hydrant is in a fire district, a statement of account of the



cost to the Corporation of the labour and materials incurred in doing so, except the cost of re-instatement, and shall render to the local government in whose district the work is done a statement of account of the cost to the Corporation of the labour and materials incurred in re-instatement.

- (8) The Corporation on installing, abolishing or keeping a fire hydrant in effective order, shall render to the local government, where the fire hydrant is in the district of the local government but elsewhere than in a fire district, a statement of the cost to the Corporation of the labour and materials in doing so, including that of re-instatement.
- (9) In the event of non-payment of the amount shown in a statement of account rendered pursuant to the provisions of subsections (7) and (8) it shall be recoverable from the Authority or the local government to whom the statement is rendered at the suit of the Corporation 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 —
  - (a) if the fire hydrant is in a fire district, whether constituted wholly or partly before, on, or after the proclaimed day, vest in the Authority as owner;
  - (b) if the fire hydrant is in the district of a local government but elsewhere than in a fire district, vest in the local government as owner.
- (11) The Corporation 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 —
  - (a) by the Authority where the fire hydrant is in a fire district;
  - (b) by the local government where the fire hydrant is in the district of the local government 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 Corporation deliver them to such person at such time as the Corporation specifies.

*[Section 45 inserted by No. 41 of 1951 s. 4; amended by No. 39 of 1963 s. 50; No. 100 of 1982 s. 14; No. 25 of 1985 s. 62; No. 73 of 1995 s. 109; No. 14 of 1996 s. 4; No. 42 of 1998 s. 38; No. 19 of 2010 s. 51.]*

*[46. Deleted by No. 73 of 1995 s. 101.]*

**Division 2 — Protection of works and prevention of waste**

*[Heading inserted by No. 19 of 2010 s. 47(3).]*

**47. Waste of water, duty to repair pipes etc. to prevent**

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.

*[48. Deleted by No. 110 of 1985 s. 26.]*

**49. Entry powers etc. to ascertain waste of water etc.**

- (1) Any officer of the Corporation 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; and
  - (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 Corporation may

repair or remove it, and if necessary substitute others in its stead, or may alter the mode of arrangement, as the case requires.

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

*[Section 49 amended by No. 39 of 1963 s. 53; No. 25 of 1985 s. 59; No. 24 of 1987 s. 28; No. 73 of 1995 s. 109.]*

**50. Corporation's fittings etc., protection of**

- (1) No person shall remove, alter, repair, renew, or uncover any pipe or other fitting which is the property of the Corporation until the prescribed notice has been given to the Corporation, and the consent of the Corporation in writing obtained.
- (2) No such pipe or fitting shall be subject or liable to be seized or taken in execution by process of law, or under distress for rent.

*[Section 50 amended by No. 39 of 1963 s. 54; No. 25 of 1985 s. 59; No. 73 of 1995 s. 109.]*

**50A. No building etc. over water main without Corporation's consent**

- (1) A person shall not, without the prior consent of the Corporation, erect, construct or place any building, wall, fence or obstruction in, upon, under or within the prescribed proximity to a main or reticulation pipe of the Corporation used for the purposes of water supply and then only upon and subject to such terms and conditions as the Corporation thinks fit to impose for the protection of the pipe from interference or damage.

Penalty: \$2 000 and in the case of a continuing offence, a further penalty not exceeding \$200 for each day the offence continues after the Corporation serves notice of the offence on the offender.

- (2) The Corporation may demolish and remove any building, wall, fence or obstruction which is erected, constructed or placed in contravention of subsection (1) and which interferes with or injuriously affects a pipe in the supply of water, and perform any works necessary for restoring or reinstating the pipe.
- (3) In addition to any penalty that may be imposed on an offender under subsection (1) the offender shall also pay to the Corporation the expense incurred by it in removing any building, wall, fence or obstruction or in re-opening, restoring, repairing or reinstating a pipe pursuant to subsection (2).

*[Section 50A inserted by No. 110 of 1985 s. 27; amended by No. 73 of 1995 s. 109.]*

**51. Entry powers to fix fittings on land**

- (1) Any person authorised by the Corporation 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 Corporation thinks proper, such fittings as the Corporation may think expedient, and may do all other acts and execute all other works which the Corporation may think fit.
- (2) Any person so authorised may at all reasonable times enter upon such lands and examine, remove, repair, alter or replace all or any of such fittings.

*[Section 51 amended by No. 39 of 1963 s. 55; No. 25 of 1985 s. 59; No. 73 of 1995 s. 109.]*

**52. Unauthorised use etc. of fittings, offence**

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

- (a) uses in, places upon or attaches to the land, or permits to be so used, placed, or fitted, any fitting, instrument, or thing not authorised by or under by-laws made under the

power conferred by section 34(3)(k) of the *Water Agencies (Powers) Act 1984*; or

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

the person commits an offence.

Penalty: For an individual — \$10 000.  
For a body corporate — \$20 000.

*[Section 52 amended by No. 39 of 1963 s. 56; No. 14 of 1967 s. 17; No. 25 of 1985 s. 59; No. 110 of 1985 s. 35; No. 73 of 1995 s. 102 and 109; No. 32 of 1997 s. 8.]*

**53. Leaving fittings unrepaired, offence**

If any person causes or suffers any pipe, receptacle, fitting, or other apparatus used in connection with water supplied to him by the Corporation 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 Corporation 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 Corporation, or connected with any such pipe, the person commits an offence.

Penalty: For an individual — \$10 000.  
For a body corporate — \$20 000.

*[Section 53 amended by No. 39 of 1963 s. 57; No. 14 of 1967 s. 18; No. 25 of 1985 s. 59; No. 110 of 1985 s. 35; No. 73 of 1995 s. 109; No. 32 of 1997 s. 9.]*

**54. Breaking valves etc., wasting water etc., offence**

If any person, not being authorised by the Corporation —

- (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 Corporation; or

- (b) flushes or draws off the water from any waterworks of the Corporation; or
- (c) does any other wilful act, or wilfully permits to be done any act whereby such water is wasted,

the person commits an offence.

Penalty: For an individual — \$10 000.

For a body corporate — \$20 000.

*[Section 54 amended by No. 39 of 1963 s. 58; No. 14 of 1967 s. 19; No. 25 of 1985 s. 59; No. 110 of 1985 s. 35; No. 73 of 1995 s. 109; No. 32 of 1997 s. 10.]*

**55. Illegal consumption etc. of water, offence**

If any person uses or consumes, or permits to be used or consumed, any water, contrary to the provisions of this Act or the by-laws, the person commits an offence.

Penalty: For an individual — \$10 000.

For a body corporate — \$20 000.

*[Section 55 amended by No. 39 of 1963 s. 59; No. 14 of 1967 s. 20; No. 25 of 1985 s. 59 and 63; No. 110 of 1985 s. 35; No. 73 of 1995 s. 109; No. 32 of 1997 s. 11.]*

**56. Taking water fraudulently, offence**

Any person who fraudulently takes or causes to be taken any water from a reservoir, main, or pipe belonging to or vested in the Corporation, or from any pipe leading to or from any such reservoir, main, or pipe, commits an offence.

Penalty: For an individual — \$10 000 or imprisonment for 2 years, or both.

For a body corporate — \$20 000.

*[Section 56 amended by No. 39 of 1963 s. 60; No. 25 of 1985 s. 59 and 64; No. 110 of 1985 s. 28; No. 73 of 1995 s. 109; No. 32 of 1997 s. 12.]*

**56A. Offender under s. 52, 53, 54, 55 or 56 may be ordered to pay costs of investigation etc.**

- (1) If a person is convicted of an offence against section 52, 53, 54, 55 or 56, the court sentencing the person for the offence may make an order requiring the person to pay to the Corporation the reasonable costs of and incidental to any measurement, testing, analysis or other matter undertaken in connection with the investigation of the offence and the provision of evidence.
- (2) The amount payable under an order —
  - (a) is to be fixed by the court; and
  - (b) may be recovered as a debt due in a court of competent jurisdiction.
- (3) An order does not affect any civil remedy the Corporation may have against the person convicted.
- (4) An order is in addition to any compensation order made by the court under Part 16 of the *Sentencing Act 1995*.
- (5) For the purposes of making a compensation order under Part 16 of the *Sentencing Act 1995* against a person convicted of an offence against section 52, 53, 54, 55 or 56, the value of any water unlawfully taken, wasted, misused, unduly consumed or contaminated is to be determined on the basis of the charge that would have been payable for the water under the *Water Agencies (Powers) Act 1984* if the water had been lawfully taken or used.
- (6) In this section, unless the contrary intention appears —  
**order** means an order under subsection (1).

*[Section 56A inserted by No. 32 of 1997 s. 13.]*

**56B. Evidentiary provisions for s. 52 to 55**

In proceedings for an offence against section 52, 53, 54 or 55 if it is proved that at a particular time —

- (a) any act or thing was done on particular land for the purpose of taking water or with the result that water was wasted; or
- (b) water was taken, used or consumed on particular land,

it is to be presumed, unless the contrary is proved, that the owner or occupier of the land at that time did the act or thing, or took, used or consumed the water, as the case requires.

*[Section 56B inserted by No. 32 of 1997 s. 13.]*

**57. Stopping supply to person contravening Act or by-laws**

If any person supplied with water by the Corporation —

- (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 Corporation 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 Corporation 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 water supply charges.

*[Section 57 amended by No. 39 of 1963 s. 61; No. 25 of 1985 s. 59; No. 24 of 1987 s. 29; No. 73 of 1995 s. 109.]*



**Division 3 — Protection of underground water**

*[Heading inserted by No. 19 of 2010 s. 47(3).]*

**57A. Underground Water Pollution Control Areas, constituting**

- (1) The Governor may, on the recommendation of the Minister, by proclamation constitute and declare any part or parts of the Area to be an Underground Water Pollution Control Area with such name and from such date subsequent to the proclamation as may be specified therein.
- (2) The Governor may, on the recommendation of the Minister, by subsequent proclamation, extend or reduce any pollution area, change the name of or abolish any pollution area.

*[Section 57A inserted by No. 11 of 1970 s. 4; amended by No. 25 of 1985 s. 59; No. 73 of 1995 s. 108; No. 38 of 2007 s. 50.]*

**57B. By-laws for pollution areas**

- (1) The Minister may make by-laws for all or any of the following purposes —
  - (a) protecting the purity of underground water within any pollution area for the supply of water under this Act;
  - (b) controlling, regulating, limiting or prohibiting, on lands, anywhere within a pollution area or within any specified part or parts thereof, the placing or discharging on, onto, or into the ground therein of anything that is liable to effect detrimentally the purity of underground water in the pollution area either directly or indirectly.
- (2) The by-laws may be so made as to apply within the whole of a pollution area or within such part or parts thereof as may be specified in the by-law.
- (3) The by-laws may provide that any act or thing shall be done with the approval or to the satisfaction of a specified person or

class of persons and may confer upon a specified person or class of persons a discretionary authority.

- (4) The by-laws may impose a penalty not exceeding \$200 for any breach thereof and in the case of a continuing breach a penalty not exceeding \$10 for each day the breach continues after the Minister serves notice of the breach on the offender.

*[Section 57B inserted by No. 11 of 1970 s. 5; amended by No. 25 of 1985 s. 59; No. 73 of 1995 s. 108; No. 10 of 1998 s. 50(1); No. 38 of 2007 s. 50.]*

**57C. Dispensation from by-laws, Minister may grant**

- (1) Nothing in any by-law prevents the Minister, if the Minister thinks fit, from granting to any person, upon his application to the Minister, a dispensation from observance of any by-law.
- (2) Any dispensation granted by the Minister under this section may be —
- (a) subject to such terms and conditions as the Minister thinks fit; or
  - (b) cancelled by notice in writing given by the Minister to the person to whom it is given; or
  - (c) altered by a like notice and the terms and conditions to which it is subject may also, in like manner, be cancelled or altered.

*[Section 57C inserted by No. 11 of 1970 s. 6; amended by No. 25 of 1985 s. 59; No. 73 of 1995 s. 108; No. 38 of 2007 s. 37 and 50.]*

**57D. Refusal of dispensation etc., review by SAT of**

- (1) Any person may apply to the State Administrative Tribunal for a review of —
- (a) a refusal by the Minister to grant him a dispensation from observance of any by-law; or

- (b) the terms and conditions to which any dispensation granted by the Minister is subject or the cancellation or alteration of such a dispensation or the cancellation or alteration of such terms and conditions.

*[(2) deleted]*

*[Section 57D inserted by No. 11 of 1970 s. 7; amended by No. 25 of 1985 s. 59; No. 73 of 1995 s. 108; No. 55 of 2004 s. 758; No. 38 of 2007 s. 50.]*

#### **Division 4 — Public Water Supply Areas**

*[Heading inserted by No. 19 of 2010 s. 47(3).]*

#### **57E. Public Water Supply Areas, constituting**

- (1) The Governor may, on the recommendation of the Minister, by proclamation constitute and declare any part or parts of the Area to be a Public Water Supply Area with such name and from such date subsequent to the proclamation as may be specified therein.
- (2) The Governor may, on the recommendation of the Minister, by subsequent proclamation, extend or reduce any Public Water Supply Area, change its name or abolish the Area.
- (3) Before presenting a recommendation to the Governor pursuant to the provisions of this section the Minister shall cause the proposed recommendation to be laid before each House of Parliament.
- (4) Either House of Parliament may pass a resolution rejecting the proposed recommendation, of which resolution notice has been given within 14 sitting days of such House after the proposed recommendation has been laid before it, whether or not the 14 days or some of them occur in the same session of Parliament or during the same Parliament as that in which the proposed recommendation is laid before the House.

- (5) The Minister shall not present to the Governor a recommendation pursuant to the provisions of this section which —
- (a) has not been laid before each House of Parliament; or
  - (b) is before either House of Parliament and is subject to rejection; or
  - (c) has been rejected.

*[Section 57E inserted by No. 43 of 1972 s. 7; amended by No. 25 of 1985 s. 59; No. 73 of 1995 s. 108; No. 38 of 2007 s. 50; No. 19 of 2010 s. 51.]*

**57EA. Underground water, Corporation may take**

- (1) Subject to subsection (2), the Corporation may take any water found under land within a Public Water Supply Area.
- (2) The Corporation shall not exercise the power conferred by subsection (1) in relation to water to which section 5C of the *Rights in Water and Irrigation Act 1914* applies, except under a licence or right granted or conferred under Part III of that Act.

*[Section 57EA inserted by No. 83 of 1976 s. 14; amended by No. 25 of 1985 s. 59; No. 73 of 1995 s. 103; No. 38 of 2007 s. 38.]*

**57F. Wells to be licensed**

- (1) Subject to subsection (2), a person shall not, except for or on behalf of the Crown, or pursuant to a licence issued for the purpose under section 57G, commence, construct, enlarge, deepen, alter or draw water from any well that is within a Public Water Supply Area or cause, suffer or permit any of those things to be done contrary to this subsection.
- (2) Where any work that would be required under subsection (1) to be done pursuant to a licence if the work were done in a Public Water Supply Area —
  - (a) has been commenced before the date of the publication in the *Government Gazette* of the proclamation

constituting and declaring the area wherein such work was commenced to be a Public Water Supply Area; and

- (b) has not been completed by that date,

the owner of the land on which the work is to continue shall, within 2 months after that date, apply for a licence for that work under section 57G.

- (3) Where an existing well is, by operation of a proclamation made under section 57E, brought within a Public Water Supply Area, the owner of the land upon which the well is situate shall, within 2 months of the date of the publication of the proclamation in the *Government Gazette*, apply under section 57G, for a licence to draw water from that well.
- (4) A person —
- (a) who contravenes or fails to comply with a provision of this section; or
  - (b) who, being engaged for the purpose of carrying out any work for which a licence is required under this section carries out or commences any such work for which a licence has not been issued or causes, suffers or permits any such work to be so carried out or commenced,

commits an offence against this Act.

Penalty: \$200 and in the case of a continuing offence, to a further fine of \$10 for each day upon which the offence continues after conviction.

*[Section 57F inserted by No. 43 of 1972 s. 8.]*

**57G. Application for, issue and effect of licences for wells**

- (1) An application for a licence referred to in section 57F —
- (a) shall be made to the Minister in the prescribed form; and
  - (b) shall be accompanied, if the application relates to the construction of a well or for the deepening, enlargement

or alteration of a well, by the prescribed plans and specifications of the construction, deepening, enlargement or alteration of the well; and

- (c) shall be accompanied by a statement of the purposes for which the water from the well is to be used or is being used.

(2) The Minister may —

- (a) issue a licence to the applicant, in the prescribed form, subject to such terms, limitations and conditions, as the Minister thinks fit; or
- (b) before granting a licence, require such alterations to be made in, or in connection with, the work to which the application relates or the plans and specifications accompanying the application, as the Minister thinks fit; or
- (c) refuse a licence; or
- (d) from time to time, after giving the holder of the licence an opportunity to be heard, suspend or amend a licence or revoke a licence.

(3) A licence —

- (a) except during the period of suspension thereof, shall, subject to subsection (6), be in force until it is revoked;
- (b) shall be issued for and in respect of the well or proposed well specified therein;
- (c) shall be deemed for the purposes of this Act to be held by the owner of the land whereon the well is sunk or is proposed to be sunk, and shall operate for the benefit of —
  - (i) such owner where he is the occupier of that land or the occupier of that land where the owner thereof is not the occupier; and
  - (ii) the occupier of any land contiguous to the first mentioned land who, by agreement with any

such holder, is entitled under that agreement to draw water from the well.

- (4) Subject to subsection (5), no deepening or enlarging of a well specified in a licence shall be made during the currency of the licence, nor shall the water from the well be used for purposes other than those authorised by the licence.
- (5) During the currency of a licence issued under this section —
- (a) application may be made to the Minister by the holder of the licence for the licence to be amended to permit alterations to be made to the well specified therein or to alter the terms, limitations, or conditions to which the licence is subject and the application shall, with such modifications as circumstances require, be made and dealt with in the manner provided in this section in respect of an application for a licence in the first instance; and
  - (b) works may be carried out by the holder of the licence on the well specified therein if the works are necessary for the maintenance of the well or are occasioned by any unforeseen emergency, but written notice of the works shall be given to the Minister by the holder of the licence within 7 days after the works are commenced.
- (6) When the construction of a well or alteration thereof is not completed within a period of 2 years from the date of the licence or amendment thereof permitting the construction or alteration —
- (a) the licence or amendment of the licence shall be deemed to have been revoked; and
  - (b) an application shall be made for, and a licence obtained, to permit such construction or alteration before the construction or alteration is commenced or completed, as the case may require,

and the application shall, with such modifications as circumstances require, be dealt with in the manner provided in

this section in respect of an application for a licence in the first instance.

- (7) A person who is aggrieved by any decision of the Minister made under this section, section 57H or 57I, may apply to the State Administrative Tribunal for a review of the decision.

*[Section 57G inserted by No. 43 of 1972 s. 9; amended by No. 25 of 1985 s. 59; No. 73 of 1995 s. 108; No. 55 of 2004 s. 759; No. 38 of 2007 s. 39 and 50.]*

**57H. Non-compliance with terms etc. of s. 57G licence, Minister's powers as to**

- (1) Where the holder of a licence issued under section 57G fails to comply with all or any of the terms, conditions or limitations to which the licence is subject, the Minister may, by instrument in writing served on the holder, direct him to comply with all or such of those terms, conditions or limitations as are specified in the instrument within the time so specified.
- (2) Where a person on whom there has been served an instrument under subsection (1) does not, within the period specified in the instrument, comply with the direction, the Minister may do all or any of the things required by the direction to be done.
- (3) Costs and expenses incurred by the Minister under subsection (2) are a debt due to the Crown by the person referred to in that subsection and are recoverable in a court of competent jurisdiction.

*[Section 57H inserted by No. 43 of 1972 s. 10; amended by No. 25 of 1985 s. 59; No. 73 of 1995 s. 108; No. 38 of 2007 s. 40 and 50.]*

**57I. Licensed wells to be maintained; suspension etc. of licences**

- (1) The holder of a licence issued under section 57G shall maintain the well to which the licence relates in good condition and repair and if the holder fails to so maintain the well, the Minister



may revoke, suspend or amend the licence as the Minister thinks fit.

- (2) Where at any time the Minister considers that water drawn from a well within a Public Water Supply Area is being improperly or wastefully used, or that water is being drawn from such a well in such a manner or in such quantities as to substantially affect the use by users or future users of underground water in that area, the Minister may suspend, amend or revoke the licence relating to the first-mentioned well.

*[Section 57I inserted by No. 43 of 1972 s. 11; amended by No. 25 of 1985 s. 59; No. 73 of 1995 s. 108; No. 38 of 2007 s. 41 and 50.]*

## **Part VII — Sewerage**

*[Heading amended by No. 33 of 1955 s. 13.]*

### **58. Land owners may be required to connect property sewers to sewer**

- (1) As soon as any sewer, or any part thereof, is completed and ready for use, the Corporation may, by notice in writing, demand that the owner or occupier of any land situated within the district and capable, in the opinion of the Corporation, of being drained into such sewer shall construct such property sewers and fittings from and in connection with such land to communicate with such sewer, as the Corporation may determine.
- (2) Such property sewers and fittings shall be made and attached and be supplied with water according to such plans and directions as the Corporation shall deem proper for effectually carrying off all impurities from the said land.

*[Section 58 amended by No. 39 of 1963 s. 62; No. 100 of 1982 s. 15; No. 25 of 1985 s. 65; No. 73 of 1995 s. 109.]*

### **59. Corporation's powers if land owner does not construct property sewer as required**

- (1) The Corporation may, after giving the prescribed notice to the owner or occupier of any land, require such property sewers 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 property sewers.
- (2) If the same shall not be constructed within such time or according to such plans and directions as the Corporation shall deem proper, the Corporation may construct, and attach the same; and for that purpose may enter into or upon the land of any such owner or occupier, and excavate the ground, and

make, construct, and attach such property sewers and fittings, and may attach and connect such ventilating shafts, pipes, or tubes as aforesaid.

- (3) The Corporation may in any such case recover from 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 water charge, the full amount of the expenses of making such property sewers or fittings, or attaching or connecting such ventilating shafts, pipes, or tubes.

*[Section 59 amended by No. 39 of 1963 s. 63; No. 100 of 1982 s. 16; No. 25 of 1985 s. 65; No. 24 of 1987 s. 30; No. 73 of 1995 s. 109.]*

**60. Land owners liable for cost of property sewers**

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

*[Section 60 amended by No. 100 of 1982 s. 17.]*

**61. Agreement to pay Corporation for property sewers etc. in instalments**

- (1) Where any owner or occupier of any land becomes liable to the Corporation for the expenses of making property sewers or fittings, or attaching or constructing ventilating shafts, pipes, or tubes, the Corporation may, upon the application of such owner or occupier enter into an agreement with such owner or occupier for the payment of such expenses and any costs incurred by the Corporation in relation to such works, in not more than 24 quarterly instalments from the date of the completion of the work.
- (2) Interest payable at the rate and in the manner prescribed in the by-laws on the amount remaining to be paid shall be added to

**s. 61A**

---

each instalment, and such payments shall be charged upon the land in respect of which such works have been carried out, and may be recovered from any owner of such land with costs.

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

*[Section 61 amended by No. 39 of 1963 s. 64; No. 100 of 1982 s. 18; No. 25 of 1985 s. 65; No. 73 of 1995 s. 109.]*

**61A. Sewer for land not liable for sewerage charge, Corporation may construct**

- (1) The owner or occupier of land not being land in respect of which a sewerage charge has been made may, in writing, require the Corporation 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.
- (2) The Corporation may, if it thinks fit and upon such terms as it thinks fit and as are agreed upon, comply with the request and construct a sewer or the connection, as the case may be.

*[Section 61A inserted by No. 14 of 1967 s. 21; amended by No. 100 of 1982 s. 19; No. 25 of 1985 s. 65; No. 24 of 1987 s. 31; No. 73 of 1995 s. 109.]*

*[62. Deleted by No. 110 of 1985 s. 29.]*

**63. Property sewers to be repaired etc.**

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

Corporation, he shall, upon conviction, for every such offence, be liable to a penalty not exceeding \$1 000.

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

*[Section 63 amended by No. 39 of 1963 s. 66; No. 14 of 1967 s. 23; No. 100 of 1982 s. 21; No. 25 of 1985 s. 65; No. 110 of 1985 s. 35; No. 73 of 1995 s. 109; No. 25 of 2005 s. 39.]*

**64. Corporation to be notified before work on property sewer etc. commences**

- (1) The owner or occupier of any land in or on which it is proposed to construct any property sewer or to construct or alter any closet or urinal or work of a sanitary nature, communicating with the sewers of the Corporation, shall, before the commencement of the work, give notice thereof, in writing, to the Corporation, and send to the Corporation 2 copies of a plan of the proposed work, together with the prescribed fee for examining the plan.
- (2) The Corporation shall, within 7 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.
- (2A) If the owner or occupier —
- (a) commences or causes to be commenced the construction or alteration of any work as aforesaid without giving such notice or without furnishing the plan as aforesaid; or
  - (b) having given the notice and furnished the plan commences or causes to be commenced the construction or alteration of the work before the expiration of the 7 days abovementioned, and before the plan has been returned by the Corporation; or

**s. 65**

---

- (c) fails to follow the directions indorsed on the plan,  
he shall be liable to a penalty not exceeding \$1 000, and any work constructed or altered contrary to or not in accordance with the said directions may be removed by the Corporation, and the expenses of the removal may be recovered by the Corporation from the owner or occupier.
- (2B) Subsections (1), (2) and (2A) shall not apply in a case where the Corporation 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 Corporation could be obtained, and that notice was given and a plan was furnished as soon as practicable.
- (3) If the construction or alteration of a work to which this section applies is suspended for a month, 2 clear days' notice of the resumption thereof shall be given by the owner or occupier to the Corporation.
- (4) If the owner or occupier resumes the construction or alteration of a work as aforesaid, or causes it to be resumed, without giving notice as aforesaid, or before the expiration of the time hereinbefore mentioned, he shall be liable to a penalty not exceeding \$500.

*[Section 64 amended by No. 39 of 1963 s. 67; No. 14 of 1967 s. 24; No. 100 of 1982 s. 22; No. 25 of 1985 s. 65; No. 73 of 1995 s. 109; No. 25 of 2005 s. 40; No. 19 of 2010 s. 51.]*

**65. Inspection powers etc. as to property sewers**

Where any property sewer is made to communicate with any sewer, any engineer, surveyor, or other person authorised by the Corporation may enter upon any house, tenement, or land and inspect such property sewer, and in the event of the same being found to be improperly laid, the Corporation may cause the same to be properly laid at the expense of the owner of such

property sewer. Such expense may be recovered in like manner as penalties are recoverable under this Act.

*[Section 65 amended by No. 39 of 1963 s. 68; No. 100 of 1982 s. 23; No. 25 of 1985 s. 65; No. 73 of 1995 s. 109.]*

**66. No building etc. over sewer without Corporation's consent**

- (1) A person shall not, without the prior consent in writing of the Corporation —
  - (a) erect, construct or place any building, wall, fence or obstruction in, upon, over, under or within the prescribed proximity to a sewer and then only upon and subject to such terms and conditions as the Corporation 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: \$2 000, and in the case of a continuing offence, a further penalty not exceeding \$200 for each day the offence continues after the Corporation serves notice of the offence on the offender.

- (2) The Corporation may demolish and remove any building, wall, fence or obstruction which is erected, constructed or placed in contravention of subsection (1) and which interferes with or injuriously affects a sewer in the carrying away of sewage, 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), the offender shall also pay to the Corporation 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).

*[Section 66 inserted by No. 14 of 1967 s. 25; amended by No. 100 of 1982 s. 24; No. 25 of 1985 s. 65; No. 110 of 1985 s. 35; No. 73 of 1995 s. 109.]*

**s. 67**

---

**67. Inspection powers as to joined property sewers**

Any person acting under the authority of the Corporation may at all reasonable times enter into or upon any land having a property sewer communicating with the sewers of the Corporation; to examine if there is any communication with any other property sewer or sewer into any land; and if such person is at such time refused admittance or on being admitted is obstructed or prevented from making such inspection and examination as aforesaid, the occupier shall be liable to a penalty not exceeding \$1 500.

*[Section 67 amended by No. 39 of 1963 s. 70; No. 14 of 1967 s. 26; No. 100 of 1982 s. 25; No. 25 of 1985 s. 65; No. 110 of 1985 s. 35; No. 73 of 1995 s. 109.]*

**68. Unauthorised use of property sewer, offence**

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

*[Section 68 amended by No. 39 of 1963 s. 71; No. 14 of 1967 s. 27; No. 100 of 1982 s. 26; No. 25 of 1985 s. 65; No. 110 of 1985 s. 35; No. 73 of 1995 s. 109; No. 25 of 2005 s. 41.]*

**69. Breaking etc. sewers etc., offence**

Every person, who, not being authorised by the Corporation, wilfully or carelessly breaks, injures, or opens, or permits to be



broken, injured, or opened any sewer, property sewer, or fitting, or any other work, shall for every such offence be liable to a penalty not exceeding —

- (a) for an individual — \$10 000; or
- (b) for a body corporate — \$20 000,

besides the amount of the expense to which the Corporation may be put in respect thereof in repairing such sewer, property sewer, fitting, or work, and the amount of such expense shall be recoverable as a debt in a court of competent jurisdiction.

*[Section 69 amended by No. 39 of 1963 s. 72; No. 14 of 1967 s. 28; No. 100 of 1982 s. 27; No. 25 of 1985 s. 65; No. 110 of 1985 s. 35; No. 73 of 1995 s. 109; No. 25 of 2005 s. 42.]*

*[69A. Deleted by No. 100 of 1982 s. 28.]*

**70. Common property sewers, Corporation's powers as to etc.**

- (1) Where in the opinion of the Corporation several portions of land in the separate occupation of several persons may be served effectively by a common property sewer, the Corporation may, pursuant to section 59, give the notice therein referred to, to the owner or occupier of the several portions of land.
- (2) Where the Corporation gives a notice pursuant to subsection (1), the provisions of this Act in general and section 59 in particular, with such modifications as circumstances require, apply to the common property sewer.
- (3) Where several portions of land in the separate occupation of several persons are served by one common property sewer, such several portions of land shall be liable to the payment of the same sewerage charges as they would have been liable to if each of such several portions of land had been connected with the sewer of the Corporation by a separate property sewer, and the costs and charges of repairing and cleansing such common property sewer by or under the direction of the Corporation shall

**s. 70**

---

be equally borne by and between each of the owners or occupiers of such several portions of land.

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

*[Section 70 amended by No. 39 of 1963 s. 73; No. 14 of 1967 s. 29; No. 100 of 1982 s. 29; No. 25 of 1985 s. 65; No. 24 of 1987 s. 32; No. 73 of 1995 s. 109.]*

*[71. Deleted by No. 100 of 1982 s. 30.]*

*[Part VIIA (s. 71A-71E) deleted by No. 100 of 1982 s. 31.]*

*[Part VIIB (s. 71F-71L) deleted by No. 37 of 1982 s. 7.]*

## **Part VIII — Liability for and recovery of water charges**

*[Heading inserted by No. 24 of 1987 s. 33.]*

*[Divisions (1)-(3) (s. 72-89, 89A) deleted by No. 37 of 1982 s. 8.]*

*[Divisions (4) and (5) (s. 90-102) deleted by No. 24 of 1987 s. 34.]*

*[Division (6) heading deleted by No. 24 of 1987 s. 34.]*

### **Division 1 — General**

*[Heading inserted by No. 19 of 2010 s. 47(3).]*

#### **103. Who is liable for charges**

- (1) The amount of any water charges made in respect of land is payable to the Corporation by the owner of the land but, at the option of the Corporation may instead in the first instance be recovered from the occupier of the land.
- [(2) deleted]*
- (3) Unless the Crown is the owner, the amount of any water charges, not being charges according to the quantity of water supplied, paid by an occupier shall, in the absence of special agreement to the contrary, be afterwards recoverable by the occupier from the owner; and a receipt for any such amount so paid may be tendered to and shall be accepted by the owner in satisfaction, to the extent of the amount specified in the receipt, of any rent due to the owner; and the amount of any charges according to the quantity of water supplied and paid by an owner shall, in the absence of special agreement to the contrary, be deemed to be rent due and owing by the occupier to the owner in respect of the land, in addition to any other rent so due and owing, and shall be recoverable as such.

- (4) Except where a special agreement to the contrary otherwise provides, the provisions of subsection (3) do not derogate from section 155.

*[Section 103 amended by No. 39 of 1963 s. 104; No. 14 of 1967 s. 46; No. 43 of 1972 s. 15; No. 37 of 1982 s. 18; No. 25 of 1985 s. 67; No. 24 of 1987 s. 35; No. 73 of 1995 s. 109.]*

**104. Payment of charges by mortgagee, effect of**

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

*[Section 104 inserted by No. 24 of 1987 s. 36.]*

**105. Certain charges to be apportioned between occupier and succeeding occupier**

- (1) When an owner or occupier ceases to be the owner or occupier of the land in respect whereof a water charge, not being a charge according to the quantity of water supplied, is made, before the end of the period in respect of which such charge is made, such owner or occupier shall, as between himself and the succeeding owner or occupier, be liable to pay a portion only of the charge payable for the whole of such period proportionate to the time during which he continued to be the owner or occupier, and any person who is the owner or occupier of the land during the remainder of the period shall be liable to pay a portion of such charge in proportion to the time during which he is such owner or occupier.
- (2) Notwithstanding subsection (1), a water charge made in respect of any land in relation to which there has been a change in ownership or occupation is recoverable from, and payment thereof may be enforced against the owner or occupier for the

time being as if no change had taken place in the ownership or occupation.

*[Section 105 amended by No. 37 of 1982 s. 20; No. 24 of 1987 s. 37.]*

**105A. Apportionment of certain charges not to affect entitlement to water in respect of charges paid**

Where an owner or occupier ceases to be the owner or occupier of land in respect whereof a water charge, not being a charge according to the quantity of water supplied, is made, before the end of the period in respect of which that charge is made —

- (a) any quantity of water which is entitled to be received in respect of the charge is not apportionable between that owner or occupier and the succeeding owner or occupier in the manner in which the charge is apportionable pursuant to section 105; and
- (b) the succeeding owner or occupier is entitled to receive, in respect of the charge, the portion, if any, of a quantity of water referred to in paragraph (a), that has not been consumed when the change in ownership or occupation takes place.

*[Section 105A inserted by No. 14 of 1968 s. 6; amended by No. 24 of 1987 s. 38.]*

**105B. Apportionment of water supplied**

Where —

- (a) during a period for which a water supply charge is to be made according to the quantity of water supplied, a person ceases to be the owner or occupier of the land concerned; and
- (b) the Corporation is not notified by either the person who ceases to be the owner or occupier of the land concerned or the person subsequently becoming the owner or

occupier of the change in ownership or occupation within 14 days after it occurs,

the Corporation may, by an officer authorised in that behalf, apportion the quantity of water supplied between each of the persons concerned as it sees fit and a charge for the water apportioned to him shall be payable by each of those persons as if it were a charge for a measured quantity of water.

*[Section 105B inserted by No. 24 of 1987 s. 39; amended by No. 73 of 1995 s. 109.]*

**106. Unsuccessful recovery action no bar to action against another person liable**

An unsatisfied judgment or order of any court for the recovery of any water charges from any person shall not be a bar to the recovery thereof from any other person liable for the payment thereof.

*[Section 106 amended by No. 14 of 1967 s. 48; No. 37 of 1982 s. 22; No. 24 of 1987 s. 40.]*

*[107, 108. Deleted by No. 24 of 1987 s. 41.]*

**109. How charges may be recovered; charges etc. are a charge on estate of liable person**

- (1) The amount payable to the Corporation in respect of any water charges, or interest due thereon, shall be recoverable action in a court of competent jurisdiction, 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.
- (2) In accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 73(2)(a), it is declared that section 73(2) of that Act applies to a charge created under subsection (1).

*[Section 109 amended by No. 14 of 1967 s. 49; No. 43 of 1972 s. 17; No. 37 of 1982 s. 25; No. 25 of 1985 s. 68; No. 24 of 1987 s. 42; No. 73 of 1995 s. 109; No. 59 of 2004 s. 141; No. 25 of 2005 s. 43; No. 42 of 2011 s. 120.]*

**110. Corporation's records, evidentiary provisions as to**

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

*[Section 110 inserted by No. 24 of 1987 s. 43; amended by No. 73 of 1995 s. 109.]*

*[111. Deleted by No. 37 of 1982 s. 27.]*

**Division 2 — Power to take possession and lease land**

*[Heading inserted by No. 19 of 2010 s. 47(3).]*

**112. Application and expiry of this Division**

- (1) Notice cannot be given under section 114(1) after section 44 of the *Water Legislation Amendment (Competition Policy) Act 2005* comes into operation<sup>1</sup>.
- (2) For the purposes of this section, the time when notice is given under section 114(1) is when —
  - (a) it has been given to every person to whom that provision requires it to be given; and
  - (b) it has been affixed upon the relevant land as required by section 114(3).

- (3) When there is no longer any old section 114(1) notice in relation to which the other sections of this Division have any further effect, the Minister is required to publish a notice in the *Government Gazette* stating that this Division expires at the end of the day on which the notice is published in the *Government Gazette*.
- (4) This Division expires as stated in the Minister's notice under subsection (3).
- (5) In this section —
- old section 114(1) notice* means a notice that was given under section 114(1) at the time of, or before, the coming into operation of section 44 of the *Water Legislation Amendment (Competition Policy) Act 2005*<sup>1</sup>;
- this Division* means this section and sections 113 to 117 and the heading before this section.
- [Section 112 inserted by No. 25 of 2005 s. 44.]

**113. Corporation's power to take and lease land where charges are in arrears**

- (1) When in respect of any land any moneys due for water charges or interest thereon have been unpaid for 3 years, or longer, the Corporation 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 —
- (a) take possession of such land; and
  - (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 Corporation shall continue to be capable of being the subject of a further water charge.

*[Section 113 amended by No. 39 of 1963 s. 109; No. 14 of 1967 s. 52; No. 37 of 1982 s. 29; No. 25 of 1985 s. 69; No. 24 of 1987 s. 45; No. 73 of 1995 s. 109.]*

**114. Procedure for taking and leasing land**

- (1) The Corporation shall not take possession of any such land until the expiration of 3 months after a notice has been given to every person in Western Australia appearing, on search in the records of the Western Australian Land Information Authority established by the *Land Information Authority Act 2006* section 5, to have any estate or interest in the land.

*[(2), (3) deleted]*

- (4) On taking possession of any land as aforesaid, the Corporation shall cause to be affixed upon some conspicuous part thereof a notice, in the form or to the effect of Schedule 9.
- (5) Every such lease shall —
- (a) be for such term, not exceeding 7 years, as to the Corporation seems fit; and
  - (b) reserve the best rent which in the opinion of the Corporation can be reasonably obtained for the property; and
  - (c) contain such other reservations and such exceptions, covenants, and conditions as to the Corporation seem fit.
- (6) Any lease granted by the Corporation, 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 duplicate certificate of title is lost or not produced.

*[Section 114 amended by No. 39 of 1963 s. 110; No. 37 of 1982 s. 30; No. 73 of 1995 s. 109; No. 81 of 1996 s. 153(1) and (2); No. 60 of 2006 s. 145(2); No. 19 of 2010 s. 22(2) and (3).]*

**115. Release of land after payment of arrears and demand**

- (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 25 years after the taking possession thereof by the former Board, the former Metropolitan Authority, the former Authority or the Corporation, and upon payment of all moneys due in respect thereof, and interest upon all arrears of such moneys at the prescribed rate, the Corporation shall, within 3 months, execute under its seal a release of such land from all moneys due in respect thereof.
- (2) Should the Corporation make 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 former Board, the former Metropolitan Authority, the former Authority or the Corporation 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.

*[Section 115 amended by No. 39 of 1963 s. 111; No. 113 of 1965 s. 4(1); No. 37 of 1982 s. 31; No. 25 of 1985 s. 70; No. 24 of 1987 s. 46; No. 73 of 1995 s. 104 and 109.]*

**116. Rent for leased land, application of by Corporation**

- (1) All rent and other moneys payable under any such lease shall, until the execution of a release as hereinbefore mentioned, or the expiration of 25 years from the taking possession thereof by the Corporation, whichever first happens, upon receipt thereof by the Corporation, be applicable —
- (a) 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;
  - (b) secondly — in payment to the Corporation of all arrears of moneys due in respect of such land, together with interest thereon calculated as hereinbefore provided, from the time when such moneys became due respectively, and in payment of all moneys accruing due thereon.
- (2) 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.

*[Section 116 amended by No. 39 of 1963 s. 112; No. 37 of 1982 s. 32; No. 24 of 1987 s. 47; No. 73 of 1995 s. 109; No. 19 of 2010 s. 51.]*

**117. Land taken, when it vests in Corporation**

Unless within 25 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 Corporation.

*[Section 117 amended by No. 39 of 1963 s. 113; No. 37 of 1982 s. 32; No. 73 of 1995 s. 109.]*

*[Heading deleted by No. 59 of 2004 s. 141.]*

*[118-124. Deleted by No. 59 of 2004 s. 141.]*

**Metropolitan Water Supply, Sewerage, and Drainage Act 1909**

**Part VIII** Liability for and recovery of water charges

**Division 2** Power to take possession and lease land

**s. 117**

---

*[Heading deleted by No. 25 of 2005 s. 45.]*

*[124A. Deleted by No. 25 of 2005 s. 45.]*

*[Part IX: s. 125 deleted by No. 39 of 1963 s. 118;  
s. 129-131 deleted by No. 39 of 1963 s. 123;  
s. 133 Deleted by No. 39 of 1963 s. 125;  
s. 136 deleted by No. 39 of 1963 s. 128;  
s. 138 deleted by No. 39 of 1963 s. 129;  
s. 139 deleted by No. 39 of 1963 s. 130;  
s. 140 deleted by No. 39 of 1963 s. 131;  
s. 127, 127A, 128, 132, 134, 135, 137 deleted by No. 37 of  
1982 s. 37;  
s. 126 deleted by No. 25 of 1985 s. 73;  
heading deleted by No. 74 of 2003 s. 82(2).]*

*[Part X (s. 141-145) deleted by No. 37 of 1982 s. 38.]*

## Part XI — By-laws

### 146. Minister may make by-laws

- (1) Without prejudice to the generality of that power, the power conferred by section 34 of the *Water Agencies (Powers) Act 1984* to make by-laws may be exercised for the purposes of this Act with respect to the following matters, that is to say: —
- (a) for the prevention of the pollution of water within or under any water reserve or catchment area;
  - (b) preventing or minimising the pollution of watercourses and sources of supply;
  - (c) the regulation or prohibition of bathing in watercourses and reservoirs;
  - (d) the preservation of good order and decency on watercourses and dams and their banks;
  - (e) regulating and controlling the commencement, drilling, sinking, construction, form, maintenance, alteration or effecting the permanent closure and sealing off of any existing or proposed artesian bores within the Area and regulating the quantity of water that may be drawn from any such artesian bore;
  - (f) regulating and controlling the commencement, drilling, sinking, construction, form, maintenance and alteration of any proposed or existing well within a Public Water Supply Area and regulating the quantity of water that may be drawn from any such well and providing for the maintaining and keeping by the CEO of a register of licences relating to such a well;
  - (g) 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;

**s. 146**

---

- (h) 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 Corporation;
- (i) specifying the purposes for which, and the persons or classes of persons to whom, water services may be supplied under agreement, and the general and special terms and conditions upon which water services shall be so supplied;
- (j) prescribing the quantity of water a consumer may take or consume for any specified purposes;
- (k) fixing the level beyond which water supplied from the works may not be allowed to rise at any particular place within the area;
- (l) prohibiting any alteration of or interference with any meter, pipes, drain, property sewer, fixtures, or fittings, without the consent of or notice to the Corporation;
- (m) modifying any of the forms contained in the Schedules.

*[(2) deleted]*

*[Section 146 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; No. 48 of 1970 s. 3; No. 43 of 1972 s. 19; No. 83 of 1976 s. 21; No. 19 of 1978 s. 3; No. 109 of 1979 s. 12; No. 37 of 1982 s. 39; No. 100 of 1982 s. 38; No. 25 of 1985 s. 74; No. 24 of 1987 s. 53; No. 73 of 1995 s. 105, 108, 109 and 111; No. 57 of 1997 s. 87; No. 39 of 1999 s. 11(6); No. 74 of 2003 s. 82(3); No. 25 of 2005 s. 46; No. 38 of 2007 s. 42; No. 19 of 2010 s. 51.]*

*[146A. Deleted by No. 73 of 1995 s. 106(1).]*

*[147. Deleted by No. 25 of 1985 s. 76.]*

*[147A. Deleted by No. 32 of 1997 s. 14.]*

## **Part XII — General provisions**

### **148. Corporation to be notified before building etc. commences**

- (1) Subject to subsection (6), the owner or occupier of any land within the Area in or on which it is proposed to construct or alter any building shall give to the Corporation the prescribed notice thereof and submit to the Corporation a plan of the proposed construction or alteration, together with the prescribed fee for examining the plan and for making or modifying connections to the water services provided by the Corporation.
- (2) The Corporation shall, within 7 days after the receipt of the plan and prescribed fee, return a copy of the plan with such written directions in relation to water services as may be thought fit.
- (3) If the owner or occupier of any land —
  - (a) commences or causes to be commenced the construction or alteration of any building without giving the notice or without furnishing the plan referred to in subsection (1); or
  - (b) having given the notice and furnished the plan commences or causes to be commenced the construction or alteration of the building before the expiration of the 7 days mentioned in subsection (2) or before the plan has been returned by the Corporation whichever is the earlier; or
  - (c) fails to follow the directions given by the Corporation under subsection (2),

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

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

**s. 149**

---

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

- (a) cease any construction or alteration being carried out;
  - (b) remove, pull down, take up or alter the building or part thereof.
- (5) If a person on whom a notice is served under subsection (4) fails or refuses to comply with the notice the Corporation may —
- (a) in accordance with the notice, remove, pull down, take up or alter the building or the part which has been constructed or altered; and
  - (b) recover the expenses of so doing from the owner or occupier of the land.
- (6) This section shall not apply in a case where the Corporation declares, in writing, that it is satisfied that an emergency had arisen which rendered it necessary or desirable that the building should be constructed or altered before the directions of the Corporation could be obtained, and that notice was given, the fee paid and a plan was furnished as soon as practicable.
- (7) The fee referred to in subsection (1) may be prescribed by reference to the cost of the construction or alteration of the building concerned as assessed by the Corporation.

*[Section 148 inserted by No. 110 of 1985 s. 34; amended by No. 73 of 1995 s. 109.]*

*[148A. Deleted by No. 25 of 1985 s. 78.]*

**149. Notices etc., form of**

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

**150. Notices etc., service of**

When a notice or demand on behalf of the Corporation, whether under the *Metropolitan Water Authority Act 1982* or this Act, is



required to be given or made to any owner or occupier whose name or address is unknown to the Corporation, it shall not be necessary to name such owner or occupier, and such notice or demand may be served by placing it on some conspicuous part of the land of such owner or occupier, and by publishing it 3 times, at intervals of not less than a week between any 2 publications, in a newspaper circulating generally in the Area.

*[Section 150 amended by No. 39 of 1963 s. 139; No. 37 of 1982 s. 44; No. 73 of 1995 s. 109.]*

**151. Notices etc. bind persons claiming under owner etc.**

All notices and demands by or on behalf of the Corporation 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.

*[Section 151 amended by No. 37 of 1982 s. 45; No. 73 of 1995 s. 109.]*

**152. Occupier's rights; apportioning liability for charges**

- (1) Where an occupier of land is required to pay or pays water charges in respect of any portion of that land as an ascertainable component of, or in addition to, the rent for the land, the owner of the land shall furnish to the occupier full particulars of the aggregate assessment of the water charges in respect of the land and of any apportionment of that assessment, including the basis upon which the apportionment was calculated.
- (2) Any determination by the owner of any land as to the liability to pay water charges to the Corporation, or to refund water charges paid or contribute to water charges payable to the Corporation, as between himself and any occupier, or as between occupiers, of that land, shall be apportioned upon an equitable basis.
- (3) Where an apportionment is varied by the Corporation pursuant to subsection (2), a person who has paid any amount pursuant to

**s. 152A**

---

the apportionment determined by the owner before it was so varied may recover that amount.

- (4) In the absence of special agreement to the contrary, an occupier may pay water charges on behalf of the owner, but where any discount or rebate is received by an owner or occupier in relation to water charges imposed by the Corporation, and those water charges are recoverable from any other person the benefit of that discount or rebate shall be passed on to the person from whom the water charges are recovered.

*[Section 152 inserted by No. 37 of 1982 s. 47; amended by No. 24 of 1987 s. 54; No. 73 of 1995 s. 109; No. 55 of 2004 s. 760.]*

**152A. Limitation period for prosecutions**

A prosecution for an offence against this Act may be commenced within 24 months after the date on which the offence was allegedly committed.

*[Section 152A inserted by No. 84 of 2004 s. 80.]*

**153. Civil remedies not affected by convictions etc.**

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

*[Section 153 amended by No. 39 of 1963 s. 141; No. 25 of 1985 s. 79; No. 73 of 1995 s. 110; No. 38 of 2007 s. 43.]*

**154. Value of water wasted etc., Corporation may recover**

When any water supplied under this Act has been wasted, misused, or unduly consumed, the Corporation 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

Corporation may possess, and to the liability to any penalty which such person has incurred.

*[Section 154 amended by No. 39 of 1963 s. 142; No. 25 of 1985 s. 79; No. 73 of 1995 s. 109.]*

**155. Occupier may recover certain money from owner**

Any money paid by an occupier, which as between the occupier and owner is, under the provisions of the *Metropolitan Water Authority Act 1982* or 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.

*[Section 155 amended by No. 37 of 1982 s. 48; No. 25 of 1985 s. 80.]*

**156. Obstructing officials performing duty**

Every person who obstructs the Minister or the Corporation, or any officer of the Department or the Corporation or any person authorised by the Minister or the Corporation, in the performance of any act or thing which the Minister or Corporation, or officer or person is respectively authorised or required to do in the execution of the *Metropolitan Water Authority Act 1982* or this Act or the by-laws commits an offence.

Penalty: \$5 000.

*[Section 156 amended by No. 39 of 1963 s. 143; No. 14 of 1967 s. 60; No. 37 of 1982 s. 49; No. 100 of 1982 s. 40; No. 25 of 1985 s. 81; No. 73 of 1995 s. 110; No. 25 of 2005 s. 47; No. 38 of 2007 s. 44.]*

**157. Refusing to give up possession of certain property, offence**

Any person having charge of any works, the property of the Crown or the Corporation, who refuses, on lawful demand, to give up peaceable and quiet possession of the same to any

**s. 158**

---

person entitled to possession under the provisions of the *Metropolitan Water Authority Act 1982* or this Act or the by-laws commits an offence.

Penalty: \$10 000.

*[Section 157 amended by No. 39 of 1963 s. 144; No. 113 of 1965 s. 4(1); No. 37 of 1982 s. 50; No. 25 of 1985 s. 80; No. 73 of 1995 s. 110; No. 25 of 2005 s. 48; No. 38 of 2007 s. 45.]*

**158. Arrest powers**

Any officer of the Department authorised by the Minister for the purposes of this section may, without warrant, arrest any person found committing an offence against the *Metropolitan Water Authority Act 1982* or this Act or the by-laws if the offender refuses to give his name and address.

*[Section 158 amended by No. 39 of 1963 s. 145; No. 37 of 1982 s. 51; No. 25 of 1985 s. 81; No. 73 of 1995 s. 110; No. 25 of 2005 s. 49; No. 38 of 2007 s. 46.]*

**158A. General penalty**

A person who is guilty of an offence against the *Metropolitan Water Authority Act 1982* or this Act or the by-laws, where no other penalty is expressly provided for the offence, is liable on conviction to a penalty of not more than \$10 000.

*[Section 158A inserted by No. 14 of 1967 s. 61; amended by No. 37 of 1982 s. 52; No. 25 of 1985 s. 81; No. 25 of 2005 s. 50.]*

**159. Prosecutions, commencement of etc.**

- (1) Proceedings for an offence against this Act or the *Metropolitan Water Authority Act 1982* may be taken by the Minister or the Corporation or an officer of the Department or the Corporation or a person authorised in that behalf pursuant to a delegation or authorisation given by the Minister or the Corporation (which ever, in each case, is relevant).

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

*[Section 159 inserted by No. 10 of 1998 s. 50(4); amended by No. 84 of 2004 s. 80; No. 38 of 2007 s. 47.]*

*[160. Deleted by No. 38 of 2007 s. 48.]*

**161. Corporation may be represented by officer**

In any proceeding before a court, judge or person acting judicially, any authorised officer of the Corporation may represent the Corporation in all respects as if he were the party concerned.

*[Section 161 inserted by No. 38 of 2007 s. 49.]*

*[162. Deleted by No. 35 of 1935 s. 48A (as amended No. 73 of 1954 s. 8).]*

*[163, 164. Deleted by No. 37 of 1982 s. 56.]*

**165. Proof of ownership or occupancy**

In any legal proceedings under the *Water Agencies (Powers) Act 1984*, the *Metropolitan Water Authority Act 1982* or this Act or the by-laws, in addition to any other method of proof available —

- (1) evidence that the person proceeded against has been charged as owner or occupier of any land; or
- (2) evidence by the certificate, in writing, of —
  - (a) the Registrar of Titles, or any assistant registrar, that any person's name appears in the Register under the *Transfer of Land Act 1893*, as proprietor of any land; or
  - (b) the Registrar of Deeds, that any person appears from any memorial of registration of any deed, conveyance, or other instrument to be the owner of any land; or

**s. 166**

---

- (c) the chief executive officer of the department principally assisting in the administration of the *Land Administration Act 1997* that any person is registered in the department 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.

*[Section 165 amended by No. 37 of 1982 s. 58; No. 25 of 1985 s. 81; No. 24 of 1987 s. 55; No. 73 of 1995 s. 111; No. 81 of 1996 s. 153(1); No. 60 of 2006 s. 145(3).]*

**166.      *Local Government Act 1995, suspending certain provisions of***

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 the *Local Government Act 1995*.

*[Section 166 amended by No. 14 of 1967 s. 62; No. 14 of 1996 s. 4.]*

*[Heading deleted by No. 19 of 2010 s. 42(3).]*

*[First Schedule omitted under the Reprints Act 1984 s. 7(4).]*

*[Second Schedule deleted by No. 14 of 1967 s. 63.]*

*[Third Schedule deleted by No. 37 of 1982 s. 59.]*

*[Fourth-Sixth Schedules deleted by No. 76 of 1978 s. 136.]*

*[Seventh, Eighth Schedules deleted by No. 25 of 2005 s. 52.]*

**Schedule 9 — Notice of possession**

[s. 114(4)]

*[Heading inserted by No. 19 of 2010 s. 22(4).]*

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

.....*District*

**Notice of possession under section 114**

Possession has been taken of this land, being allotment No.                      of  
section [or portion] No.                      *[here describe situation of land]*, by the Water  
Corporation in accordance with the provisions of the abovementioned Act, and  
it is to be let on lease.

Water Corporation

.....20....

*[Ninth Schedule amended by No. 39 of 1963 s. 155; No. 37 of 1982  
s. 60; No. 25 of 1985 s. 82; No. 73 of 1995 s. 107; No. 19 of 2010  
s. 22(4).]*

*[Tenth-Twelfth Schedules deleted by No. 59 of 2004 s. 141.]*

*[Thirteenth Schedule deleted by No. 39 of 1963 s. 159.]*

## Notes

<sup>1</sup> This is a compilation of the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909* and includes the amendments made by the other written laws referred to in the following table<sup>1a</sup>. The table also contains information about any reprint.

### Compilation table

Short title	Number and year	Assent	Commencement
<i>Metropolitan Water Supply, Sewerage, and Drainage Act 1909</i>	43 of 1909 (9 Edw. VII No. 39)	21 Dec 1909	24 Jan 1910 in Perth, Fremantle, and Claremont Districts of the Metropolitan Water, Sewerage and Drainage Area (see s. 2 and <i>Gazette</i> 21 Jan 1910 p. 47)
<i>Metropolitan Water Supply, Sewerage, and Drainage Act Amendment Act 1925</i>	30 of 1925 (16 Geo. V No. 30)	16 Dec 1925	1 Jul 1926 (see s. 1 and <i>Gazette</i> 28 May 1926 p. 1083)
<i>Metropolitan Water Supply, Sewerage, and Drainage Act Amendment Act 1941</i>	2 of 1941 (5 Geo. VI No. 2)	25 Sep 1941	25 Sep 1941
<b>Reprint of the <i>Metropolitan Water Supply, Sewerage, and Drainage Act 1909</i> not in a Volume</b> (includes amendments listed above)			
<i>Metropolitan Water Supply, Sewerage and Drainage Act Amendment Act 1951</i>	13 of 1951 (15 Geo. VI No. 13)	20 Nov 1951	20 Nov 1951
<i>Acts Amendment (Fire Brigades Board and Fire Hydrants) Act 1951</i> s. 4	41 of 1951 (15 and 16 Geo. VI No. 41)	20 Dec 1951	4 Apr 1952 (see s. 2 and <i>Gazette</i> 4 Apr 1952 p. 799-800)
<b>Reprint of the <i>Metropolitan Water Supply, Sewerage, and Drainage Act 1909</i> approved 9 Oct 1953 in Vol. 6 of Reprinted Acts</b> (includes amendments listed above)			
<i>Limitation Act 1935</i> s. 48A(1)	35 of 1935 (26 Geo. V No. 35) (as amended by No. 73 of 1954 s. 5 and 8)	14 Jan 1955	Relevant amendments (see s. 48A and Second Sch. <sup>3</sup> ) took effect on 1 Mar 1955 (see No. 73 of 1954 s. 2 and <i>Gazette</i> 18 Feb 1955 p. 343)
<i>Metropolitan Water Supply, Sewerage, and Drainage Act Amendment Act 1955</i>	33 of 1955 (4 Eliz. II No. 33)	28 Nov 1955	28 Nov 1955



**Metropolitan Water Supply, Sewerage, and Drainage Act 1909**

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Metropolitan Water Supply, Sewerage, and Drainage Act Amendment Act 1956</i>	27 of 1956 (5 Eliz. II No. 27)	29 Nov 1956	29 Nov 1956
<i>Metropolitan Water Supply, Sewerage, and Drainage Act Amendment Act 1960</i>	71 of 1960 (9 Eliz. II No. 71)	5 Dec 1960	Act other than s. 3-5, 13-15: 20 Jan 1961 (see s. 2 and <i>Gazette</i> 20 Jan 1961 p. 105); s. 3-5, 13-15: 1 Jul 1961 (see s. 2 and <i>Gazette</i> 16 Jun 1961 p. 1800)
<b>Reprint of the Metropolitan Water Supply, Sewerage, and Drainage Act 1909 approved 28 Jul 1961 in Vol. 15 of Reprinted Acts</b> (includes amendments listed above)			
<i>Metropolitan Water Supply, Sewerage, and Drainage Act Amendment Act 1962</i>	75 of 1962 (11 Eliz. II No. 75)	30 Nov 1962	30 Nov 1962
<i>Metropolitan Water Supply, Sewerage, and Drainage Act Amendment Act 1963</i>	39 of 1963 (12 Eliz. II No. 39)	25 Nov 1963	1 Jul 1964 (see s. 2 and <i>Gazette</i> 13 Mar 1964 p. 1577)
<b>Reprint of the Metropolitan Water Supply, Sewerage, and Drainage Act 1909 approved 17 Mar 1964 in Vol. 18 of Reprinted Acts</b> (includes amendments listed above)			
<i>Decimal Currency Act 1965</i>	113 of 1965	21 Dec 1965	Act other than s. 4-9: 21 Dec 1965 (see s. 2(1)); s. 4-9: 14 Feb 1966 (see s. 2(2))
<i>Metropolitan Water Supply, Sewerage, and Drainage Act Amendment Act 1967</i>	14 of 1967	20 Oct 1967	1 Jan 1968 (see s. 2 and <i>Gazette</i> 1 Dec 1967 p. 3303-4)
<i>Metropolitan Water Supply, Sewerage, and Drainage Act Amendment Act 1968</i>	14 of 1968	8 Oct 1968	8 Oct 1968
<i>Metropolitan Water Supply, Sewerage, and Drainage Act Amendment Act 1969</i>	8 of 1969	6 May 1969	6 May 1969
<b>Reprint of the Metropolitan Water Supply, Sewerage, and Drainage Act 1909 approved 21 Nov 1969</b> (includes amendments listed above)			
<i>Metropolitan Water Supply, Sewerage, and Drainage Act Amendment Act 1970</i>	11 of 1970	29 Apr 1970	29 Apr 1970
<i>Metropolitan Water Supply, Sewerage, and Drainage Act Amendment Act (No. 2) 1970</i>	48 of 1970	8 Oct 1970	8 Oct 1970

## Metropolitan Water Supply, Sewerage, and Drainage Act 1909

Short title	Number and year	Assent	Commencement
<i>Metropolitan Water Supply, Sewerage, and Drainage Act Amendment Act 1972</i>	43 of 1972	16 Jun 1972	11 May 1973 (see s. 2 and <i>Gazette</i> 11 May 1973 p. 1157)
<i>Metric Conversion Act 1972</i>	94 of 1972	4 Dec 1972	Relevant amendments (see First Schedule <sup>4</sup> ) took effect on 1 Jul 1973 (see s. 4(2) and <i>Gazette</i> 4 May 1973 p. 1110)
<i>Metropolitan Water Supply, Sewerage, and Drainage Act Amendment Act 1975</i>	24 of 1975	13 May 1975	13 May 1975
<i>Metropolitan Water Supply, Sewerage, and Drainage Act Amendment Act 1976</i>	83 of 1976	21 Oct 1976	Act other than s. 6-11: 21 Oct 1976 (see s. 2(1)); s. 6-11: 10 Dec 1976 (see s. 2(2) and <i>Gazette</i> 10 Dec 1976 p. 4879)
<i>Metropolitan Water Supply, Sewerage, and Drainage Act Amendment Act 1977</i>	59 of 1977	23 Nov 1977	9 Dec 1977 (see s. 2 and <i>Gazette</i> 9 Dec 1977 p. 4501)
<b>Reprint of the Metropolitan Water Supply, Sewerage, and Drainage Act 1909 approved 13 Dec 1977</b> (includes amendments listed above)			
<i>Metropolitan Water Supply, Sewerage, and Drainage Act Amendment Act 1978</i>	19 of 1978	18 May 1978	18 May 1978
<i>Acts Amendment and Repeal (Valuation of Land) Act 1978 Pt. XI</i>	76 of 1978	20 Oct 1978	1 Jul 1979 (see s. 2 and <i>Gazette</i> 11 May 1979 p. 1211)
<i>Metropolitan Water Supply, Sewerage, and Drainage Act Amendment Act (No. 2) 1978</i>	105 of 1978	30 Nov 1978	30 Nov 1978
<i>Metropolitan Water Supply, Sewerage, and Drainage Act Amendment Act 1979</i>	3 of 1979	17 May 1979	22 Oct 1979 (see s. 2 and <i>Gazette</i> 14 Sep 1979 p. 2780)
<i>Metropolitan Water Supply, Sewerage, and Drainage Act Amendment Act (No. 3) 1979</i>	42 of 1979	25 Oct 1979	1 Jul 1979 (see s. 2)

## Metropolitan Water Supply, Sewerage, and Drainage Act 1909

Short title	Number and year	Assent	Commencement
<i>Metropolitan Water Supply, Sewerage, and Drainage Act Amendment Act (No. 4) 1979</i>	109 of 1979	17 Dec 1979	9 May 1980 (see s. 2 and <i>Gazette</i> 9 May 1980 p. 1446)
<i>Metropolitan Water Supply, Sewerage, and Drainage Amendment Act 1980</i>	3 of 1980	25 Aug 1980	26 Sep 1980 (see s. 2 and <i>Gazette</i> 26 Sep 1980 p. 3306)
<i>Metropolitan Water Supply, Sewerage, and Drainage Amendment Act 1981</i>	41 of 1981	25 Aug 1981	25 Aug 1981
<i>Acts Amendment (Statutory Designations) and Validation Act 1981 s. 4</i>	63 of 1981	13 Oct 1981	13 Oct 1981
<i>Metropolitan Water Supply, Sewerage, and Drainage Amendment Act (No. 2) 1981</i>	72 of 1981 (as amended by No. 25 of 1985 s. 83)	30 Oct 1981	30 Oct 1981
<i>Metropolitan Water Supply, Sewerage, and Drainage Amendment Act 1982</i>	37 of 1982	27 May 1982	1 Jul 1982 (see s. 2 and <i>Gazette</i> 25 Jun 1982 p. 2091)
<i>Metropolitan Water Supply, Sewerage, and Drainage Amendment Act (No. 3) 1982</i>	100 of 1982	24 Nov 1982	31 Dec 1982 (see s. 2 and <i>Gazette</i> 31 Dec 1982 p. 4969)
<i>Acts Amendment and Repeal (Water Authorities) Act 1985 Pt. V</i>	25 of 1985	6 May 1985	1 Jul 1985 (see s. 2 and <i>Gazette</i> 7 Jun 1985 p. 1931)
<i>Acts Amendment (Water Authorities) Act 1985 Pt. IV</i>	110 of 1985 (as amended by No. 74 of 2003 s. 24)	17 Dec 1985	Act other than s. 26, 29, 30, 33 and 34: 14 Mar 1986 (see s. 2 and <i>Gazette</i> 14 Mar 1986 p. 726); s. 34: 14 Jul 1987 (see s. 2 and <i>Gazette</i> 14 Jul 1987 p. 2647); s. 29: 1 Feb 1990 (see s. 2 and <i>Gazette</i> 5 Jan 1990 p. 38); s. 26: 21 Dec 1990 (see s. 2 and <i>Gazette</i> 21 Dec 1990 p. 6199); s. 30 and 33 repealed by No. 74 of 2003 s. 24

## Metropolitan Water Supply, Sewerage, and Drainage Act 1909

Short title	Number and year	Assent	Commencement
<i>Acts Amendment (Water Authority Rates and Charges) Act 1987 Pt. III</i>	24 of 1987	25 Jun 1987	14 Jul 1987 (see s. 2 and <i>Gazette</i> 14 Jul 1987 p. 2647)
<i>Water Agencies Restructure (Transitional and Consequential Provisions) Act 1995 Pt. 7</i> <sup>5</sup>	73 of 1995	27 Dec 1995	1 Jan 1996 (see s. 2(2) and <i>Gazette</i> 29 Dec 1995 p. 6291)
<i>Sentencing (Consequential Provisions) Act 1995 Pt. 52 (s. 71-73)</i> <sup>6</sup>	78 of 1995	16 Jan 1996	s. 71-72: 4 Nov 1996 (see s. 2 and <i>Gazette</i> 25 Oct 1996 p. 5632)
<b>Reprint of the Metropolitan Water Supply, Sewerage, and Drainage Act 1909 as at 28 May 1996</b> (includes amendments listed above except those in the <i>Acts Amendment (Water Authorities) Act 1985</i> s. 30 and 33 and the <i>Sentencing (Consequential Provisions) Act 1995</i> )			
<i>Local Government (Consequential Amendments) Act 1996 s. 4</i>	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
<i>Transfer of Land Amendment Act 1996 s. 153(1) and (2)</i>	81 of 1996	14 Nov 1996	14 Nov 1996 (see s. 2(1))
<i>Acts Amendment (Land Administration) Act 1997 s. 142</i>	31 of 1997	3 Oct 1997	30 Mar 1998 (see s. 2 and <i>Gazette</i> 27 Mar 1998 p. 1765)
<i>Water Legislation Amendment Act 1997 Pt. 3</i>	32 of 1997	3 Oct 1997	15 Apr 1998 (see s. 2 and <i>Gazette</i> 15 Apr 1998 p. 2041)
<i>Statutes (Repeals and Minor Amendments) Act 1997 s. 87</i>	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2(1))
<i>Statutes (Repeals and Minor Amendments) Act (No. 2) 1998 s. 50</i> <sup>7</sup>	10 of 1998	30 Apr 1998	30 Apr 1998 (see s. 2(1))
<i>Fire and Emergency Services Authority of Western Australia (Consequential Provisions) Act 1998 s. 38</i>	42 of 1998	4 Nov 1998	1 Jan 1999 (see s. 2 and <i>Gazette</i> 22 Dec 1998 p. 6833)
<b>Reprint of the Metropolitan Water Supply, Sewerage, and Drainage Act 1909 as at 29 Jan 1999</b> (includes amendments listed above except those in the <i>Acts Amendment (Water Authorities) Act 1985</i> s. 30 and 33)			

## Metropolitan Water Supply, Sewerage, and Drainage Act 1909

Short title	Number and year	Assent	Commencement
<i>Water Services Coordination Amendment Act 1999 s. 11(6)</i>	39 of 1999	9 Nov 1999	19 Jun 2000 (see s. 2 and <i>Gazette</i> 16 Jun 2000 p. 2939)
<i>Rights in Water and Irrigation Amendment Act 2000 s. 85</i>	49 of 2000	28 Nov 2000	10 Jan 2001 (see s. 2 and <i>Gazette</i> 10 Jan 2001 p. 163)
<i>Statutes (Repeals and Minor Amendments) Act 2003 s. 82</i>	74 of 2003	15 Dec 2003	15 Dec 2003 (see s. 2)
<i>Courts Legislation Amendment and Repeal Act 2004 s. 141</i> <sup>8</sup>	59 of 2004 (as amended by No. 2 of 2008 s. 77(13))	23 Nov 2004	1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)
<i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Pt. 2 Div. 84</i> <sup>9</sup>	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004 s. 80</i>	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))
<i>Water Legislation Amendment (Competition Policy) Act 2005 Pt. 5</i>	25 of 2005	12 Dec 2005	3 Jun 2006 (see s. 2 and <i>Gazette</i> 2 Jun 2006 p. 1985)
<b>Reprint 9: The Metropolitan Water Supply, Sewerage, and Drainage Act 1909 as at 17 Feb 2006</b> (includes amendments listed above except those in the <i>Water Legislation Amendment (Competition Policy) Act 2005</i> )			
<i>Land Information Authority Act 2006 s. 145</i>	60 of 2006	16 Nov 2006	1 Jan 2007 (see s. 2(1) and <i>Gazette</i> 8 Dec 2006 p. 5369)
<i>Water Resources Legislation Amendment Act 2007 Pt. 4</i> <sup>10</sup>	38 of 2007	21 Dec 2007	1 Feb 2008 (see s. 2(2) and <i>Gazette</i> 31 Jan 2008 p. 251)
<i>Standardisation of Formatting Act 2010 s. 22, 42(3), 47 and 51</i>	19 of 2010	28 Jun 2010	11 Sep 2010 (see s. 2(b) and <i>Gazette</i> 10 Sep 2010 p. 4341)
<b>Reprint 10: The Metropolitan Water Supply, Sewerage, and Drainage Act 1909 as at 10 Jun 2011</b> (includes amendments listed above)			

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Personal Property Securities (Consequential Repeals and Amendments) Act 2011</i> Pt. 13 Div. 3	42 of 2011	4 Oct 2011	30 Jan 2012 (see s. 2(c) and Cwlth Legislative Instrument No. F2011L02397 cl. 5 registered 21 Nov 2011)

<sup>1a</sup> On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

**Provisions that have not come into operation**

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Fire and Emergency Services Legislation Amendment Act 2012</i> Pt. 7 Div. 9 <sup>11</sup>	22 of 2012	29 Aug 2012	To be proclaimed (see s. 2(b))
<i>Water Services Legislation Amendment and Repeal Act 2012</i> Pt. 4 <sup>12</sup>	25 of 2012	3 Sep 2012	To be proclaimed (see s. 2(b))

<sup>2</sup> The short title of the *Water Authority Act 1984* was changed to the *Water Agencies (Powers) Act 1984* by the *Water Agencies Restructure (Transitional and Consequential Provisions) Act 1995*.

<sup>3</sup> Section 48A and the Second Schedule were inserted by the *Limitation Act Amendment Act 1954* s. 5 and 8.

<sup>4</sup> The Schedule to the *Metric Conversion Act 1972* was redesignated as the First Schedule by the *Metric Conversion Act Amendment Act 1973*.

<sup>5</sup> The *Water Agencies Restructure (Transitional and Consequential Provisions) Act 1995* s. 106(2) is a transitional provision that is of no further effect.

<sup>6</sup> The *Sentencing (Consequential Provisions) Act 1995* s. 73 was deleted by the *Statutes (Repeals and Minor Amendments) Act (No. 2) 1998* s. 50(5) before it came into effect.

<sup>7</sup> The *Statutes (Repeals and Minor Amendments) Act (No. 2) 1998* s. 50(2) reads as follows:

- (2) Any by-laws made and in operation under section 57B(1) of the Act as in force immediately before the commencement of this

section continue in operation and have effect for all purposes as if made under that subsection as amended by this section.

- <sup>8</sup> The *Courts Legislation Amendment and Repeal Act 2004* Sch. 2 cl. 32 was repealed by the *Criminal Law and Evidence Amendment Act 2008* s. 77(13).
- <sup>9</sup> The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administrative Tribunal Act 2004* s. 167 and 169, and the *State Administrative Tribunal Regulations 2004* r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.
- <sup>10</sup> The *Water Resources Legislation Amendment Act 2007* Pt. 11 deals with certain transitional issues some of which may be relevant for this Act.
- <sup>11</sup> On the date as at which this compilation was prepared, the *Fire and Emergency Services Legislation Amendment Act 2012* Pt. 7 Div. 9 had not come into operation. It reads as follows:

**Division 9 — Metropolitan Water Supply, Sewerage, and Drainage Act 1909 amended**

**128. Act amended**

This Division amends the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909*.

**129. Section 45 amended**

- (1) In section 45(1) delete the definition of *Authority*.
- (2) In section 45(1) insert in alphabetical order:

*FES Commissioner* has the meaning given in the *Fire and Emergency Services Act 1998* section 3;

- (3) In section 45(3) and (7) delete “Authority” (each occurrence) and insert:

FES Commissioner

- (4) In section 45(9) delete “Authority or the local government to whom the statement is rendered” and insert:

State or the local government, according to whether the statement is rendered to the FES Commissioner or the local government,

- (5) In section 45(10)(a) delete “Authority” and insert:

Minister responsible for the administration of the *Fire and Emergency Services Act 1998*

- (6) In section 45(11)(a) delete “Authority” and insert:

FES Commissioner

<sup>12</sup> On the date as at which this compilation was prepared, the *Water Services Legislation Amendment and Repeal Act 2012* Pt. 4 had not come into operation. It reads as follows:

**Part 4 — *Metropolitan Water Supply, Sewerage, and Drainage Act 1909* amended**

**31. Act amended**

This Part amends the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909*.

**32. Section 5 amended**

- (1) In section 5(1) delete the definitions of:

*aquifer*

*artesian bore*

*Corporation*

*officer*

*prescribed*

*sewerage charge*

*sewerage works*

*water charge*

*water supply charge*

*waterworks*

- (2) In section 5(1) in the definition of *watercourse* delete “(c);” and insert:



(c).

(3) Delete section 5(2).

**33. Section 14 amended**

(1) In section 14(1) delete “the Corporation” and insert:

a licensee (as defined in the *Water Services Act 2012* section 3(1))

(2) In section 14(2) delete “The Corporation” and insert:

A licensee

**34. Section 16 amended**

In section 16(c) delete “Act” and insert:

act

**35. Part V deleted**

Delete Part V.

**36. Part VI heading replaced**

Delete the heading to Part VI and insert:

**Part VI — The protection of underground water**

**37. Part VI Divisions 1 and 2 deleted**

Delete Part VI Divisions 1 and 2.

**38. Part VI Division 3 heading deleted**

Delete the heading to Part VI Division 3.

**39. Section 57B amended**

(1) In section 57B(1)(a) delete “water under this Act;” and insert:

water;

- (2) In section 57B(3) delete “Act” and insert:

act

- 40. Part VI Division 4 deleted**  
Delete Part VI Division 4.
- 41. Parts VII and VIII deleted**  
Delete Parts VII and VIII.
- 42. Section 146 amended**  
In section 146(1):
- (a) in paragraph (d) delete “banks;” and insert:  
  
banks.
  - (b) delete paragraphs (e) to (m).
- 43. Section 148 deleted**  
Delete section 148.
- 44. Sections 150 to 152 deleted**  
Delete sections 150 to 152.
- 45. Section 153 amended**  
In section 153 delete “or the Corporation”.
- 46. Sections 154 and 155 deleted**  
Delete sections 154 and 155.
- 47. Section 156 replaced**  
Delete section 156 and insert:
- 156. Obstructing Minister, officers or authorised persons in performance of duty**  
A person who obstructs —
- (a) the Minister; or
  - (b) an officer of the Department; or
  - (c) a person authorised by the Minister,

in the performance of any act or thing which the Minister, officer or person is authorised or required to do in the execution of the *Metropolitan Arterial Drainage Act 1982* or this Act commits an offence.

Penalty: a fine of \$5 000.

**48. Section 157 amended**

In section 157:

- (a) delete “or the Corporation,”;
- (b) delete “the *Metropolitan Water Authority Act 1982* or”.

**49. Section 158 amended**

In section 158 delete “the *Metropolitan Water Authority Act 1982* or”.

**50. Section 158A amended**

In section 158A delete “the *Metropolitan Water Authority Act 1982* or”.

**51. Section 159 amended**

Delete section 159(1) and insert:

- (1) Proceedings for an offence against this Act may only be taken by the Minister or an officer of the Department or a person authorised to do so by the Minister.

**52. Section 161 deleted**

Delete section 161.

**53. Section 165 amended**

In section 165 delete “*Water Agencies (Powers) Act 1984*, the *Metropolitan Water Authority Act 1982*” and insert:

*Water Agencies (Powers) Act 1984*

**54. Section 166 deleted**

Delete section 166.

**55. Schedule 9 deleted**

Delete Schedule 9.



## Defined Terms

*[This is a list of terms defined and the provisions where they are defined.  
The list is not part of the law.]*

<b>Defined Term</b>	<b>Provision(s)</b>
aquifer .....	5(1)
Area.....	5(1)
artesian bore.....	5(1)
Authority.....	45(1)
catchment area .....	5(1)
CEO .....	5(1)
Corporation .....	5(1)
Department.....	5(1)
fire district.....	45(1)
fire hydrant.....	45(1)
former Authority .....	5(1)
former Metropolitan Authority .....	5(1)
officer.....	5(1)
old section 114(1) notice.....	112(5)
order .....	56A(6)
pollution area .....	5(1)
prescribed.....	5(1)
proclaimed day.....	45(1)
Registrar of Deeds.....	5(1)
re-instatement.....	45(1)
sewerage charge .....	5(1)
sewerage works.....	5(1)
this Act.....	5(3)
this Division.....	112(5)
water charge .....	5(1)
water supply charge .....	5(1)
watercourse .....	5(1)
waterworks.....	5(1)