

# RIGHTS IN WATER AND IRRIGATION AMENDMENT ACT 1984.

(No. 119 of 1984).

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- 12. Section 41 amended.
- 13. Section 42 amended.
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- 15. Section 59 amended.
- 16. Section 62 amended.
- 17. Section 66 amended.
- 18. Section 76 inserted.
- 19. Various penalties increased.
- 20. Sections 4 to 7 of amending Act repealed.
- 21. Sections 10 to 13 of amending Act repealed.
- 22. Section 27 of amending Act amended.

# RIGHTS IN WATER AND IRRIGATION.

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No. 119 of 1984.

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**AN ACT to amend the Rights in Water and Irrigation Act 1914 and the Rights in Water and Irrigation Act Amendment Act 1978.**

*[Assented to 27 December 1984.]*

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

1. (1) This Act may be cited as the *Rights in Water and Irrigation Amendment Act 1984*.

Short title  
and principal  
Act.

(2) In this Act the Rights in Water and Irrigation Act 1914 is referred to as the principal Act and the Rights in Water and Irrigation Act Amendment Act 1978 is referred to as the amending Act.

Reprinted as  
approved  
12 August  
1974 and  
amended by  
Acts Nos. 48  
of 1974,  
100 of 1976,  
76 and 98  
of 1978 and  
63 of 1981.

Commence-  
ment.

2. This Act shall come into operation on such day or days as is or are respectively fixed by proclamation.

Parts I, II  
and III  
substituted.

3. Parts I, II, and III of the principal Act are repealed and the following Parts are substituted—

“ PART I.—PRELIMINARY.

Short title.

1. This Act may be cited as the Rights in Water and Irrigation Act 1914.

Interpreta-  
tion.

2. In this Act, unless the contrary intention appears—

“artesian well” means a well, including all associated works, from which water flows, or has flowed, naturally to the surface;

“bed” with reference to any water-course, lake, lagoon, swamp or marsh means the land over which normally flows, or which is normally covered by, the water thereof, whether permanently or intermittently; but does not include land from time to time temporarily covered by the flood waters of such water-course, lake, lagoon, swamp or marsh, and abutting on or adjacent to such bed;

“Board” means an Irrigation Board constituted under this Act, and in Part III, includes a Board constituted under the Water Boards Act 1904; the term also includes the Minister acting in the exercise of the powers and authorities conferred on a Board;

“Crown land” means land vested in Her Majesty which is not for the time being dedicated to any public

purpose, or subject to any grant, lease, licence, contract, or engagement made by or on behalf of Her Majesty;

“Department” means the department of the Public Service of the State known as the Public Works Department;

“District” means an Irrigation District constituted under this Act;

“irrigable” as applied to land means land for the time being declared or deemed to have been declared under section 40 (1a) to be irrigable land for the purposes of this Act and of such situation as to be capable of being irrigated from works or proposed works;

“irrigation” means any method of causing water from a water-course or works to flow upon and spread over land for the purpose of cultivation of any kind or of tillage or improvement of pasture, or of applying water to the surface of land for the like purpose;

“lake, lagoon, swamp or marsh”, means a natural collection of water, whether permanent or temporary, that is not part of a water-course;

“local authority” means the council of a municipality constituted under the Local Government Act 1960;

“non-artesian well” means a well, including all associated works, from which water does not flow, and has not flowed, naturally to the surface, but has to be raised, or has been raised, by pumping or other artificial means;

“occupier” means the person by whom, or on whose behalf, any land is occupied, and if there is no occupier, means the person entitled to possession;

“owner” means the person who, for the time being, is entitled to receive the rent of any land, either on his own account or on account of some other person, or who would be entitled to receive the rent if the land were let at a rent;

“spring” means a spring of water naturally rising to and flowing over the surface of land;

“water-course” means a river, stream, or creek in which water flows in a natural channel, whether permanently or intermittently and includes any natural collection of water into, through, or out of which, any such river, stream, or creek so flows;

“well” means a bore, pit, excavation, shaft, hole or other opening made for the purpose of obtaining a supply of underground water;

“works” means works for the conservation, supply, and utilisation of water, together with all sources of supply, streams, reservoirs, artesian wells, non-artesian wells, buildings, machinery, pipes, drains, and other works constructed or erected for the purposes of this Act, and all appurtenances to the same, and all lands reserved, occupied, held, or used in connection with works.

## PART II.—ADMINISTRATION.

3. (1) The general administration of this Act shall be under the control of the Minister. The Minister

(2) All lands acquired for or dedicated to the purposes of this Act, and all irrigation works constructed, or in course of construction under this Act, and all irrigation works constructed by the Government before the commencement of this Act which the Governor may, by Order in Council, declare to be subject to this Act, shall vest in the Minister on behalf of Her Majesty—

- (a) until those lands and works are vested in a Board under this Act; or
- (b) on the dissolution of any Board in which those lands and works were, immediately before such dissolution, vested.

(3) The Minister may exercise, within any District, all the powers and authorities, except the power to borrow money conferred by section 52, and shall have all the immunities, conferred by this Act on a Board—

- (a) until the constitution of a Board for such District; and
- (b) after the dissolution of the Board for such District.

4. (1) The Governor shall, from time to time, appoint 3 or more persons, who may be officers of the Public Service, as Commissioners to advise the Minister upon matters relating to the administration of this Act, and any other Act in force for the time being relating to irrigation or land drainage. Commis-  
sioners.

(2) The Governor may, from time to time, appoint any officer of the Public Service to act, for such time as the Governor thinks fit,

as the deputy of a Commissioner during his absence or illness, or for other sufficient cause.

(3) Any person appointed a Commissioner shall hold such office at the will of the Governor.

Staff.

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

PART III.—CONTROL OF WATERS.

*Division 1.—Certain surface waters.*

Application  
of Division.

6. (1) This Division does not apply to or in relation to—

(a) the water flowing from any spring the water of which rises to the surface on land that has been granted or demised by the Crown until it has passed beyond the boundaries of the land belonging to the owner or occupier of the land on which the water so rises; or

(b) the water in any lake, lagoon, swamp, or marsh the bed of which is on land that has been granted or demised by the Crown and is wholly within the boundaries of the land belonging to the owner or occupier of the land on which it is situate.

(2) Subject to subsection (1) and any proclamation under subsection (3), this Division applies to and in relation to every water-course, lake, lagoon, swamp, or marsh that is for the time being situated within the boundaries of a District but not otherwise.

(3) Subject to subsection (4), the Governor may, on the recommendation of the Minister, at any time and from time to time by proclamation declare that this Division—

(a) shall; or



(b) shall not,

apply to and have effect in relation to any watercourse, lake, lagoon, swamp, or marsh specified in the proclamation or situated in a portion of the State so specified and any such proclamation shall have effect according to its tenor.

(4) A proclamation under subsection (3) shall not be made unless, at least 30 days before the proclamation is made, notice of the proposed proclamation has been given to each interested local authority for the purpose of enabling it to make such objections or representations as it sees fit.

(5) For the purposes of subsection (4), where a water-course, lake, lagoon, swamp, or marsh runs through, is contiguous to, or is situated wholly or partly in, the district of a local authority that local authority is, in relation to a proposed proclamation under that subsection affecting that water-course, lake, lagoon, swamp or marsh, an interested local authority.

7. A proclamation made under section <sup>Saving.</sup> 27 (5) as enacted before the coming into operation of section 3 of the Rights in Water and Irrigation Amendment Act 1984 and in force immediately before the coming into operation of that section shall—

(a) in the case of a proclamation under paragraph (a) or (b) thereof, be deemed to have been made under section 6 (3) (a);

(b) in the case of a proclamation under paragraph (c) thereof, be deemed to have been made under section 6 (3) (b),

and a reference in any such proclamation to this Part shall be read as a reference to this Division.

Natural  
waters vest  
in the  
Crown.

8. (1) The right to the use and flow and to the control of the water at any time in any water-course, lake, lagoon, swamp, marsh or spring shall, subject to this Act and until appropriated under this or any other Act, vest in the Crown.

(2) This section shall not operate so as to prevent any person from draining any land, or making any dam or tank upon any land, of which he is the owner or occupier if the flow of water in any water-course or the amount of water in any lake, lagoon, swamp or marsh is not thereby sensibly diminished.

Riparian  
right  
defined.

9. (1) Subject to this section, the owner or occupier of any land alienated from the Crown through or contiguous to which runs any water-course, or contiguous to which, or partly within which, is situate any lake, lagoon, swamp or marsh, has the right, as such owner or occupier, to take water in that water-course, lake, lagoon, swamp or marsh, free of charge—

(a) for the domestic and ordinary use of himself and of his family and servants; and

(b) for watering cattle or other stock,

and every owner of land alienated from the Crown before the relevant day has a further right to take such water for the irrigation of a garden not exceeding 2 hectares in extent, being part of that land and used in connection with a dwelling.

(2) For the purposes of this section—

(a) “the relevant day”, in relation to land through or contiguous to which runs a water-course, or contiguous

to which or partly within which is situate a lake, lagoon, swamp or marsh, means—

- (i) where this Division applies to and has effect in relation to the water-course, lake, lagoon, swamp or marsh by reason of a proclamation under section 6 (3), the day on which that proclamation was published;
  - (ii) in any other case, the day when this Act came into operation; and
- (b) land that, on the relevant day, was or is in process of alienation shall be deemed to have been alienated before that day.

(3) Where any public works of water supply constructed before or after the commencement of this Act wholly or partially supplies or augments the volume of water in any water course, lake, lagoon, swamp or marsh, the right conferred by subsection (1) on an owner or occupier to take water in that water-course, lake, lagoon, swamp or marsh is subject to the limitations set out in subsection (4) and shall be exercised only in accordance with that subsection and the regulations.

(4) After the construction of any public works of water supply a person is not entitled by subsection (1) to take any more of the water of the water-course, lake, lagoon, swamp or marsh concerned than—

- (a) 14 kilolitres per day for domestic and ordinary use and for watering cattle or other stock, in respect of every kilometre of frontage measured by the general course to such water-course, or to such lake, lagoon,

swamp or marsh, and 8 500 cubic metres per annum for the irrigation of a garden not exceeding 2 hectares in extent, being part of the land adjoining the bed thereof, and used in connection with a dwelling; or

- (b) the amount of water that would be available to him and to which he would be so entitled but for the existence of such works,

whichever is the lesser.

Other  
rights to  
water.

10. (1) Any person may take water for domestic and ordinary use, and for watering cattle or other stock from any water-course, lake, lagoon, swamp or marsh, vested in the Crown and to which there is access by a public road or reserve.

(2) No right to take and divert water from any water-course, lake, lagoon, swamp or marsh for use on any land adjacent to the bed thereof shall be acquired by any owner of such land, and no right to the permanent diversion or to the exclusive use of such water shall be acquired by any person, by length of use or otherwise, except under this or any other Act.

Other  
diversions  
to be  
licensed.

11. A person who, not being authorized by section 9 or 10 or any other Act to do so, diverts or takes any water from any water-course, lake, lagoon, swamp or marsh or causes, suffers, or permits any of those things to be done except pursuant to a licence issued for that purpose under section 12 or 13 commits an offence and is liable to a fine not exceeding \$2 000 and, where the offence continues after conviction, \$200 for each day that the offence so continues.

## 12. (1) Where—

Certain  
riparian  
owners  
may apply  
for special  
licences  
to divert  
and use  
water.

- (a) a proclamation is made, or deemed to have been made, under section 6 (3) (a) in respect of a water-course, lake, lagoon, swamp, or marsh; and
- (b) before the relevant day, the owner or occupier, or each of successive owners or occupiers, of land alienated from the Crown before the relevant day has permanently diverted, or at intervals during every year exclusively taken and used, the water of the water-course, lake, lagoon, swamp, or marsh for any purpose or use other than—
  - (i) the domestic and ordinary use of himself and of his family and servants;
  - (ii) the watering of cattle or other stock; or
  - (iii) the irrigation of a garden not exceeding 2 hectares in extent, being part of that land and used in connection with a dwelling,

the owner or occupier of the land may, within 12 months after the relevant day, apply to the Minister for a special licence authorizing the continuation of such diversion, taking, or use for a period of 10 years after the relevant day.

## (2) For the purposes of subsection (1)—

- (a) “the relevant day”, in relation to a water-course, lake, lagoon, swamp or marsh referred to in that subsection, means the day on which the proclamation mentioned in that subsection was published; and

(b) land that, on the relevant day, was or is in process of alienation shall be deemed to have been alienated before that day.

(3) An application under subsection (1) shall be in the prescribed form duly completed and signed by the applicant or by his agent duly empowered in writing.

(4) The Minister shall cause notice of every application under subsection (1) to be published in the *Gazette*, and in at least one issue of a newspaper circulating generally in the neighbourhood of the land, and shall direct copies of the notice to be served on such persons as he thinks fit, and shall appoint a time, not more than 6 months from the date of the notice or of the first of such advertisements, within which objections to the application may be received.

(5) Where an owner or occupier of land makes an application under subsection (1), an owner or occupier of any other land that is—

(a) within 4.8 kilometres of that land;

and

(b) contiguous to the water-course, lake, lagoon, swamp, or marsh to which the application relates,

may make an objection to the application being granted, by writing addressed to the Minister and setting out the grounds of the objection.

(6) The Minister after such inquiry into the subject matter of the application and of any objections thereto as he thinks proper to direct may refuse the application or may grant the application either wholly or in part.

(7) Where the Minister grants the application he shall issue to the applicant a special licence in respect of the land and user of the water specified in the application or of so much of such land and water as the Minister thinks fit.

(8) A special licence under this section shall be subject to such special conditions and provisions, if any, as the Minister determines and to the provisions of this Act and, notwithstanding that it is expressed to be for a period of 10 years, may be determined or modified at any time in the event or manner prescribed by this section.

(9) The holder of a special licence under this section may divert, take, and use water to the extent and in respect of the land and in the manner specified in the licence.

(10) If at any time during the currency of a special licence under this section it is proved to the satisfaction of the Minister that the licensee has failed to observe and perform the conditions and provisions subject to which the licence was issued and held, or that it is expedient, in the interests of the public, that the licence should be determined or modified, the Minister may give the licensee notice in writing by registered post that he intends, after the expiration of one month from the date of such notice, to determine or to modify the licence.

(11) Unless the licensee, before the expiration of the month fixed under subsection (10), shows to the Minister sufficient cause why the licence should not be determined or modified the Minister may make an order determining or modifying the licence.

(12) If an order under subsection (11) is made in the interests of the public the Minister may recommend to the Governor payment to the licensee by way of compensation of such amount out of the Consolidated Revenue Fund as to the Minister seems equitable, and if the Governor approves of such recommendation effect shall be given thereto accordingly.

Licences,  
other than  
special  
licences.

13. (1) The Minister may grant to any owner or occupier of land a licence, subject to such terms, limitations and conditions, if any, as may be specified or referred to therein or as may be prescribed for the purposes of this section, to take, use, or dispose of water from any water-course, lake, lagoon, swamp or marsh, and may from time to time thereafter renew any licence so granted.

(2) Subject to subsection (3) a licence granted under this section shall have effect for such period as may be specified therein.

(3) Subject to section 14, the Minister, at any time during the currency of a licence granted under this section, by notice in writing served on the licensee, may—

- (a) vary the period for which the licence is to have effect;
- (b) vary or add to the terms, limitations, or conditions imposed in relation to a licence; or
- (c) in the case of a licence which is not subject to any terms, limitations, or conditions, provide that it shall be subject to such terms, limitations or reasonable conditions as are specified in the notice.



14. (1) A person who is aggrieved by the refusal of his application for a licence or the holder of a licence who is aggrieved by any term, limitation, condition, or provision imposed in relation to a licence granted or renewed under section 12 or 13 may, within 30 days after written notice of the decision appealed against is received, give to the Minister notice of his wish to be heard. Appeals.

(2) Where the Minister receives a notice under subsection (1), the Minister shall cause an inquiry to be conducted by such person or persons as he shall appoint and the person aggrieved has the right to be heard at that inquiry; and the Minister shall thereafter give such decision as he thinks fit and effect shall be given thereto.

15. (1) Subject to subsection (4), where a water-course, lake, lagoon, swamp or marsh forms the boundary or part of the boundary of a parcel of land that has at any time been alienated by the Crown, the bed thereof shall, for the purposes of this Act, be deemed to have remained the property of the Crown, and not to have passed with the land so alienated. The *alveus*  
of waters not  
alienated.

(2) Subject to subsection (4), where a water-course, lake, lagoon, swamp or marsh forms the boundary, or part of the boundary of a parcel of land that is alienated by the Crown, the bed thereof shall, notwithstanding such alienation, remain the property of the Crown, and shall not pass with the land so alienated.

(3) Subsections (1) and (2) apply notwithstanding that one and the same person has been or is the owner of the lands adjacent to both banks.

(4) This section does not apply to—

- (a) the bed of a natural collection of water into and out of which flows a river, stream, or creek to the extent that it exceeds in width the width of the river, stream, or creek at its inlet to or outlet from that natural collection of water; or
- (b) the bed of a natural collection of water, whether or not it is part of a water-course, to the extent that it is cultivated, either wholly or in part, at any time during the year, or is capable of being drained and cultivated.

Owner of  
land  
adjacent  
to water-  
course to  
have certain  
rights.

16. (1) Notwithstanding anything in section 15—

- (a) the owner or occupier for the time being of any land adjacent to any water-course, lake, lagoon, swamp, or marsh, the bed whereof is by this Act declared to have remained the property of the Crown, shall have the like access to the portion of the bed to which that land is adjacent, and the like use of that portion as if this Act had not passed unless such portion has been actually appropriated by or is under the sanction of the Crown for any of the purposes of this Act; and
- (b) such owner or occupier may have and pursue against any person trespassing upon that portion of the land any remedy for trespass which he might have had and pursued if this Act had not been passed, and as if that person were a trespasser upon land in the possession of such owner or occupier

(2) The Minister may, in the name and on behalf of the Crown, grant to the owner or occupier of any land adjacent to any water-course, lake, lagoon, swamp, or marsh the bed whereof is by this Act declared to have remained the property of the Crown, permission subject to such conditions as the Minister may think fit to carry out works at the expense of that owner or occupier for the protection of that land from damage by erosion or flooding, if in the opinion of the Minister such works will not injuriously affect the bed or unduly obstruct the water-course, lake, lagoon, swamp or marsh.

(3) This section shall not be taken to restrict the right of the Crown to pursue any remedy against any person trespassing upon such bed nor shall this section entitle an owner or occupier to have or pursue any remedy for trespass against the Crown, the Minister, or a Board, or any person acting under the authority of the Crown, the Minister, or a Board.

(4) A person exercising in respect of a bed a right of access or use conferred by subsection (1) of this section does not by reason thereof trespass upon such bed.

17. (1) Where, whether before or after the coming into operation of this Act, land was or is granted or demised by the Crown, a person shall not, except as authorized by or under this or any other Act, obstruct, destroy, or interfere with any water-course, race, or drain flowing through or over the land, or any dam or reservoir, or the bed of any disused water-course, race, or drain, that is on the land.

*Interference  
prohibited.*

(2) Subsection (1) applies notwithstanding that although the water-course, race, or drain flowed through or over the land, or the dam

or reservoir, or the bed of a disused water-course, race, or drain, was on the land at the time of the grant or demise of the land, an appropriate reservation or exception was not included in the Crown grant or lease.

(3) A person shall not, except as authorized by or under this or any other Act, obstruct, destroy or interfere with the waters, bed or banks of any water-course flowing through or over, or lake, lagoon, swamp or marsh situate wholly or partly on, land that has not been granted or demised by the Crown.

(4) Any person who obstructs, destroys, or interferes with anything contrary to subsection (1) or (3) is guilty of an offence against this section; and any person who, being the occupier of any land granted or demised as mentioned in subsection (1), continues or fails to remove any such obstruction or interference is guilty of an offence against this section on every day during which such obstruction or interference is continued or not removed after notice in writing to discontinue or to remove the same has been given by or on behalf of the Minister to such occupier.

(5) A prosecution for an offence against this section may be commenced at any time within 2 years after the offence was committed and not afterwards.

(6) The Minister may, by notice in writing, direct any person who has been convicted of an offence against this section to carry out such works and take such other measures as the Minister specifies in the notice for the purpose of restoring the bed or banks of the water-course, race, drain, lake, lagoon, swamp or marsh or minimizing the effect of the obstruction or destruction thereof or interference therewith.

(7) Where a direction contained in a notice given under subsection (6) has not been complied with and the time allowed by the notice for compliance has expired the Minister may cause such works to be carried out and measures to be taken as he considers appropriate for achieving the purposes of the notice, and the Minister may recover the expenses thereby reasonably incurred as a debt due from the person to whom the notice was given.

18. Any person who conveys or discharges, or causes or permits to be conveyed or discharged any sludge, mud, earth, gravel, or other matter likely to obstruct the flow of the current, into any water-course, is guilty of an offence against this Act.

Obstruction  
of flow.

*Division 2.—Other surface waters.*

19. (1) Subject to subsection (2), this Division applies to and has effect in relation to every water-course, lake, lagoon, swamp, or marsh to and in relation to which Division 1 does not apply.

Application  
of Division.

(2) This Division does not apply to or in relation to—

- (a) the water flowing from any spring the water of which rises to the surface on land that has been granted or demised by the Crown until it has passed beyond the boundaries of the land belonging to the owner or occupier of the land on which the water so rises; or
- (b) the water in any lake, lagoon, swamp, or marsh the bed of which is on land that has been granted or demised by the Crown and is wholly within the boundaries of the land belonging to the owner or occupier of the land on which it is situate.

Riparian  
right  
defined.

20. (1) The owner or occupier of any land alienated from the Crown through or contiguous to which runs any water-course, or contiguous to which, or partly within which, is situate any lake, lagoon, swamp or marsh, has the right, as such owner or occupier, to take water in that water-course, lake, lagoon, swamp or marsh, free of charge—

(a) for the domestic and ordinary use of himself and of his family and servants;

(b) for watering cattle or other stock;  
and

(c) to the extent that the flow of water in the water-course or the amount of water in the lake, lagoon, swamp or marsh, as the case may be, is not thereby sensibly diminished, for any other purpose,

and every owner of land alienated from the Crown before the commencement of this Act has a further right to take such water for the irrigation of a garden not exceeding 2 hectares in extent, being part of that land and used in connection with a dwelling.

(2) For the purposes of this section, land in process of alienation at the commencement of this Act shall be deemed to have been alienated before the commencement of this Act.

Other rights  
to water.

21. (1) Any person may take water—

(a) for domestic and ordinary use;

(b) for watering cattle or other stock;

and

- (c) to the extent that the flow of water in the water-course or the amount of water in the lake, lagoon, swamp or marsh, as the case may be, is not thereby sensibly diminished, for any other purpose,

from any water-course, lake, lagoon, swamp or marsh that is vested in the Crown and to which there is access by a public road or reserve.

(2) No right to take and divert water from any water-course, lake, lagoon, swamp or marsh for use on any land adjacent to the bed thereof shall be acquired by any owner of such land, and no right to the permanent diversion or to the exclusive use of such water shall be acquired by any person, by length of use or otherwise, except under this or any other Act.

22. (1) The Minister may, where he is of the opinion that— Directions.

(a) any person—

- (i) having a right under section 20 or 21 to take water in a water-course, lake, lagoon, swamp, or marsh, has diverted, taken, or used such water for a purpose or to an extent not authorized by this Division; or
- (ii) not having a right under section 20 or 21 to take water in a water-course, lake, lagoon, swamp, or marsh, has diverted, taken, or used such water; and

(b) the unauthorized diversion, taking, or use—

- (i) resulted in or contributed to the interference with the enjoyment by any other person

of a right conferred by this Division, or any damage or injury to the land of any other person; or

- (ii) should not, in the public interest, be permitted to continue,

by notice in writing give directions to the person who has so diverted, taken, or used the water defining, where applicable, the purposes for which, or the extent to which, water may be diverted, taken, or used by that person in the exercise of those rights and specifying the extent, if any, to which, the manner in which, and the conditions upon which, that person may divert, take, or use such water otherwise than in the exercise of those rights.

(2) A direction given by the Minister under subsection (1) may be varied or cancelled by the Minister by subsequent notice in writing.

(3) A direction given under subsection (1) shall not permit the diversion, taking, or use of water otherwise than in the exercise of a right under section 20 or 21 unless the Minister is satisfied that such diversion, taking, or use will not result in or contribute to any interference, damage, or injury of the kind referred to in subsection (1) (b) (i).

(4) Where by notice under subsection (1) or (2) the Minister gives to a person a direction or varies a direction previously given and, after the expiry of 30 days from the giving of the notice, the person to whom the notice was given diverts, takes, or uses water contrary to the direction so given or the direction as so varied that person commits an offence and is liable to a fine not exceeding \$500; and if the offence of which he is convicted is continued after the conviction he commits a further offence and is liable to a further fine not exceeding \$50 for every day on which the offence is so continued.



23. (1) A person to whom a notice is given under section 22 or any other person who is aggrieved by a direction contained in a notice given under section 22 (1) or such a direction as varied may, within 30 days after he is given notice of the direction or variation or, where he is not the person to whom the notice is given, within 30 days after he has knowledge of the direction or variation, give to the Minister notice that he wishes to be heard. Appeals.

(2) Where the Minister receives a notice under subsection (1), the Minister shall cause an inquiry to be conducted by such person or persons as he shall appoint and the person aggrieved has the right to be heard at that inquiry; and the Minister shall thereafter give such decision as he thinks fit and effect shall be given thereto.

(3) Every person appointed by the Minister under subsection (2) shall be chosen from amongst persons who are either a magistrate as defined by the Justices Act 1902, or who, due to their qualifications and experience, are otherwise suitable to conduct the inquiry.

24. Nothing contained in, or done under, this Division affects any remedy to which a person would otherwise be entitled in civil proceedings except that a person shall not be liable to be proceeded against in respect of any diversion, taking, or use of water that is permitted by a direction under section 22. Saving of civil remedy.

25. (1) A person shall not, except as authorized by or under this or any other Act, obstruct, destroy, or interfere with the waters, bed, or banks of any water-course flowing through or over, or lake, lagoon, swamp or marsh situate wholly or partly on, land that has not been granted or demised by the Crown. Offences.

(2) Any person who obstructs, destroys, or interferes with anything contrary to subsection (1) is guilty of an offence against this section.

(3) A prosecution for an offence against this section may be commenced at any time within 2 years after the offence was committed and not afterwards.

(4) The Minister may, by notice in writing, direct any person who has been convicted of an offence against this section to carry out such works and take such other measures as the Minister specifies in the notice for the purpose of restoring the bed or banks of the water-course, lake, lagoon, swamp or marsh or minimizing the effect of the obstruction or destruction thereof or interference therewith.

(5) Where a direction contained in a notice given under subsection (4) has not been complied with and the time allowed by the notice for compliance has expired the Minister may cause such works to be carried out and measures to be taken as he considers appropriate for achieving the purposes of the notice, and the Minister may recover the expenses thereby reasonably incurred as a debt due from the person to whom the notice was given.

*Division 3.—Underground waters.*

Rights to  
underground  
waters vest  
in the Crown.

26. The right to the use and flow and to the control of the water at any time in any underground source of supply shall, subject to this Act and until appropriated under this or any other Act, vest in the Crown.

Artesian  
wells to be  
licensed.

26A. (1) A person shall not, except pursuant to a licence issued for that purpose under section 26D, commence, construct, enlarge, deepen, alter, or draw water from any artesian well or cause, suffer, or permit any of those things to be done.

(2) A person who—

- (a) being an owner or occupier of land, contravenes or fails to comply with subsection (1); or
- (b) being a person engaged for the purpose of carrying out any work mentioned in subsection (1), commences or carries out any such work that is not authorized by a licence issued under section 26D,

commits an offence and is liable to a fine not exceeding \$2 000 and, where the offence continues after conviction, \$200 for each day that the offence so continues.

26B. (1) The Governor may by proclamation declare any part of the State named or defined in the proclamation, to be a proclaimed area for the purposes of this section; and may, by subsequent proclamation, vary or cancel any such proclamation.

Non-artesian  
wells in  
certain areas  
to be  
licensed.

(2) Section 42 of the Interpretation Act 1984, applies to any proclamation made under subsection (1) as though the proclamation were a regulation.

(3) Subject to subsection (4) and section 26C, a person shall not, except pursuant to a licence issued for that purpose under section 26D, commence, construct, enlarge, deepen, alter or draw water from any non-artesian well that is situate in a proclaimed area, or cause, suffer or permit any of those things to be done.

(4) Where any work required by this section to be the subject of a licence has, on the day of the publication of a proclamation made under subsection (1) declaring the part of the State in which the well is situate to be a proclaimed area, been commenced and is not completed, the occupier of the land on

which the work was commenced shall, within 2 months after that day, apply for a licence under section 26D for that work.

(5) Subject to section 26C, where an existing non-artesian well is, by operation of a proclamation made under this section, brought into a proclaimed area, the occupier of the land upon which the well is situate shall, within 2 months after the day of the publication of the proclamation, apply for a licence under section 26D to draw water from that well.

(6) A person who—

(a) being an owner or occupier of land, contravenes or fails to comply with this section; or

(b) being a person engaged for the purpose of carrying out any work mentioned in subsection (3), commences or carries out any such work that is not authorized by a licence issued under section 26D,

commits an offence and is liable to a fine not exceeding \$2 000 and, where the offence continues after conviction, \$200 for each day that the offence so continues.

**Exemptions.**

26C. (1) In this section, “proclaimed area” has the same meaning as it has in section 26B.

(2) The Governor may, by Order in Council published in the *Gazette*, declare that sections 26B (3) to 26B (6) do not apply in relation to a non-artesian well situated, or to be situated, in a proclaimed area or part thereof specified in the Order if that well is used or to be used for the drawing of water for—

(a) the domestic and ordinary use of the owner or occupier of the land on which the well is, or is to be, situated and of their respective families and servants;

(b) the watering of cattle or other stock;  
or

(c) any one or more of the purposes  
mentioned in paragraph (a) or (b),

but no other purpose and an Order published  
under this subsection shall have effect  
according to its tenor.

(3) The Governor may, by a subsequent  
Order in Council published in the *Gazette*,  
vary or cancel an Order under subsection (2).

(4) Where an Order published under sub-  
section (3) varies or cancels a previous Order  
so published—

(a) a person does not contravene section  
26B (3) or (6) by reason of the doing,  
within 2 months after the publication  
of the Order effecting the variation  
or cancellation, of anything that  
would not have contravened that  
provision had the previous Order not  
been so varied or cancelled;

(b) in relation to work that, but for the  
variation or cancellation of the  
previous Order, would, by reason of  
that Order, not have been required  
under section 26B to be the subject  
of a licence, section 26B (4) applies  
as if the day on which the Order  
effecting the variation or cancella-  
tion was published were the day on  
which a proclamation were made  
under section 26B (1) declaring the  
part of the State concerned to be a  
proclaimed area; and

(c) in relation to a non-artesian well  
from which, but for the variation or  
cancellation of the previous Order, a  
person would, by reason of that  
Order, not have been prevented from

drawing water, section 26B (5) applies as if the day on which the Order effecting the variation or cancellation was published were the day on which a proclamation were made under section 26B (1) bringing the well into a proclaimed area.

Application  
for and  
issue of  
licences.

26D. (1) Every application for a licence for the commencement or construction of an artesian well or a non-artesian well or for the enlargement, deepening or altering of, or the drawing of water from, an existing well shall be made to the Minister in the prescribed form and shall be accompanied by the prescribed plans and specifications, together with a statement of the purposes for which it is proposed to use the water.

(2) The Minister may, in his discretion—

- (a) issue a licence to the applicant subject to such terms, limitations and conditions as he thinks fit;
- (b) before granting a licence, require such alterations to be made in, or in connection with, the work or the plans and specifications as he thinks fit; or
- (c) refuse a licence.

(3) A licence shall be deemed to be held by, and shall operate for the benefit of, the lawful owner and the occupier, for the time being, of the land whereon the well is sunk or is proposed to be sunk.

(4) An applicant for a licence who is aggrieved by any decision of the Minister made under this section may, within 30 days after receiving advice of the decision, give notice to the Minister of his wish to be heard, before the decision is implemented.

(5) Where the Minister receives a notice such as is mentioned in subsection (4), the Minister shall cause an inquiry to be conducted by such persons as he shall appoint including at least one person nominated by the person aggrieved, and the person aggrieved has the right to be heard at any such inquiry; and the Minister shall thereafter give such decision as he thinks fit and effect shall be given thereto.

26E. (1) Where after the coming into operation of section 3 of the Rights in Water and Irrigation Amendment Act 1984 a non-artesian well is constructed or deepened, the person who carries out the work shall, within 1 month after completing the construction of or deepening of the well, furnish, in the prescribed form, to the Minister or to such other person as the Minister may direct such information in respect of the well as is prescribed.

Information  
on non-  
artesian  
wells.

Penalty: \$500.

(2) The Minister may, by notice published in the *Gazette*, exempt persons from the requirement of complying with subsection (1) in respect of wells in any part of the State and may, by subsequent notice so published, vary or cancel any such notice.

26F. (1) During the currency of a licence issued under section 26D no alterations shall be made in or in connection with the well, nor shall the water from the well be used for purposes other than those authorized by the licence but works necessary for the maintenance of the well in good order or occasioned by any unforeseen emergency may be carried out if written notice of all such works is given to the Minister within 7 days after the same are commenced.

Penalty for  
alterations in  
licensed well  
or contra-  
vention of  
licence.

(2) Any person who contravenes this section, or contravenes or fails to carry out any condition of the licence, shall be liable to a penalty not exceeding \$2 000 and a further penalty of \$200 for each day during which the offence continues after conviction; and, in addition to the imposition of the said penalty, the Minister may cancel the licence given in respect of the well in regard to which the offence was committed; and a person shall not thereafter do, or cause, suffer or permit to be done, any thing that was authorized by the licence to be done.

(3) The holder of any such licence may, during the currency thereof, apply for an amended licence allowing alterations in the well; and every such application shall be dealt with as is herein provided in respect of applications for a licence in the first instance.

Powers of  
Minister in  
case of  
improper  
user of  
water.

26G. (1) If the Minister is of the opinion that water drawn from any artesian well or from a non-artesian well in relation to which section 26B (3) applies, whenever constructed—

- (a) is being improperly used;
- (b) is being wasted, whether by reason of neglect, failure to effect repairs or alterations reasonably necessary for the proper maintenance of the well or any other cause;
- (c) is having harmful effect; or
- (d) is not being used to the best advantage,

he may, after giving 30 days' notice of his intention in that regard, direct the closing or partial closing of the well or direct such other steps (including any reasonable repairs and



alterations) to be taken as he thinks necessary to prevent the continuance of any of the things mentioned in paragraph (a), (b), (c) or (d).

(2) The Minister may, for the purpose of regulating the quantity of water to be drawn from any artesian or non-artesian underground water source, from time to time give directions as to the amount of water that may be drawn, and the rate of draw, for any artesian well or non-artesian well that draws water from that underground source.

(3) A person who fails to comply with a direction given pursuant to this section commits an offence.

Penalty: \$500 and, where the offence is a continuing one, \$50 for each day that the offence continues after the direction is given.

(4) Where a person is convicted of an offence against this section, the Minister may cancel any licence given in respect of the well in regard to which the offence was committed; and a person shall not thereafter do, or cause, suffer or permit to be done any thing that was authorized by a licence so cancelled to be done.

*Division 4.—Miscellaneous.*

26H. (1) The Minister or any person empowered by the Minister, may in the exercise of the right of the Crown to the control of the waters in water-courses, lakes, lagoons, swamps, marshes or underground sources or for any other purpose required by this Act, enter upon any land and inspect that land and any dam, well, or other works thereon or therein and take such measures as may be necessary or convenient, whether in general or to meet particular cases, to carry out the objects and purposes of this Act and

Right of  
entry to the  
Crown.

their duties thereunder including measures for the conservation and regulation of such water and for its preservation from pollution, and for the protection of the bed over or within which it flows or is contained, and for removing any obstruction from such bed, and for clearing and deepening and straightening and otherwise altering the channel of any such water-course, and may intervene summarily to prevent the undue, excessive, or illegal diversion, drawing, use, or pollution of such water or interference with such bed; and it shall not be necessary for the Crown or the Minister to obtain an injunction or other order of a court for the purpose of such entry or measures.

(2) Any person who obstructs, impedes or interferes with the Minister or any person acting in the exercise of a power conferred under subsection (1) by the Minister, in entering upon any land or in taking any measures under subsection (1), is guilty of an offence against this Act.

Minister  
entitled to  
institute  
proceedings.

26J. (1) The Minister shall be entitled, in the name and on behalf of the Crown, to institute and maintain by any person empowered for that purpose by the Minister any proceeding in any court whether such proceeding be for any civil remedy or for the recovery or enforcement of any penalty against any person for illegally diverting or taking or for polluting the water of any water-course, lake, lagoon, swamp, marsh or underground water source, or for unlawfully interfering with the bed thereof.

(2) In such proceedings it shall not be necessary for the Minister to show that either the Crown or the Minister or any person has sustained damage by such illegal diversion or taking or pollution of water or unlawful interference with such bed; nor that the

Crown or the Minister is a riparian owner or otherwise entitled to the use or to the protection of the water-course, lake, lagoon, swamp, marsh or underground water source from which water is illegally diverted or taken, or the water of which is polluted, or the bed of which is unlawfully interfered with; but the Minister shall be entitled to judgment in his favour if it be proved that the water has been illegally diverted or taken or polluted, or that the bed has been unlawfully interfered with; and the Minister shall, in the discretion of the court, be entitled to the costs and expenses of the proceedings against the person by whom the court in its discretion shall order such costs and expenses to be paid.

27. (1) The Governor may make regulations prescribing all matters that are required or permitted by this Part to be prescribed, or are necessary or convenient to be prescribed, for giving effect to the purposes of this Part and, in particular as to—

Governor  
may make  
regulations.

- (a) the establishment and functions of advisory committees for the purpose of assisting the Minister in the administration of this Part;
- (b) the issue of, the conditions and provisions applicable to, and the privileges and obligations under, special licences, the consideration of objections thereto, and the operation, modification, or termination thereof, pursuant to section 12;
- (c) the issue of, and the privileges and obligations under, licences pursuant to section 13 and generally as to such licences;
- (d) the exercise of rights affected by section 9 (3) and (4);

- (e) well licences, and artesian and non-artesian wells subject to licensing;
- (f) the furnishing of information as to wells;
- (g) the forms to be used and the fees payable in respect of applications and the grant, variation and renewal of licences;
- (h) the conduct and determination of inquiries and appeals under this Part;

and

- (i) generally, the implementation of the licensing schemes provided for in this Part.

(2) Regulations made under subsection (1) may provide that contravention of a provision thereof constitutes an offence and may provide for a penalty in respect of such a contravention not exceeding a fine of \$1 000. ”.

Section 27A  
amended.

4. Section 27A of the principal Act is amended—

(a) in subsection (1)—

- (i) by deleting “subterranean” where it occurs in each of paragraphs (a) and (b) and substituting the following—

“ underground ”; and

- (ii) by deleting “whether” in paragraph (b) and substituting the following—

“ other than one that is of a class exempted for the purposes of this paragraph by the regulations, whether that effluent, waste or other matter is ”;

- (b) in subsection (2) by inserting after paragraph (a) the following paragraph—

“ (aa) the discharge or deposit is in the course of the use of a place for the time being set apart for that purpose under section 119 of the Health Act 1911 and such use is in accordance with such requirements, if any, as are imposed under that Act; ”; and

- (c) by inserting after subsection (3) the following subsections—

“ (4) Where a person has been convicted of an offence against subsection (1) (a) or (b) and the Minister is of the opinion that the discharge or deposit that is the subject of the offence will, or will be likely to, have any of the effects mentioned in subsection (1) (a), the Minister may, by notice in writing, direct the person who has been convicted of the offence to take such measures in relation to—

(a) the matter the subject of the offence; or

(b) any waters affected by the commission of the offence,

as the Minister specifies in the notice for the purpose of removing the matter discharged or deposited, restoring the quality of any waters adversely affected, or otherwise minimizing the adverse effects resulting from the commission of the offence.

(5) Where a direction contained in a notice given under subsection (4) has not been complied with and the time allowed by the notice for compliance

has expired the Minister may cause such measures to be taken as he considers appropriate for achieving the purposes of the notice, and the Minister may recover the expenses thereby reasonably incurred as a debt due from the person to whom the notice was given. ”.

Section 27AA  
inserted.

5. After section 27A of the principal Act the following section is inserted—

Control of  
certain  
methods of  
disposal.

“ 27AA. (1) Where any person causes or knowingly permits any matter to be discharged or deposited on or in any land or water, or proposes so to do, and the Minister is of the opinion that there is a real possibility that such discharge or deposit may, by reason of the poisonous, noxious, or polluting nature of the matter, lead to the impairment of the physical, chemical or biological condition of waters referred to in section 27A (1) (a) notwithstanding measures that may be taken to prevent the discharge or deposit of the matter from leading to such impairment, the Minister may give to that person notice in writing informing him that any such discharge or deposit caused or permitted by that person after such time as the Minister specifies in the notice will constitute an offence against section 27A unless it is authorized by, and in accordance with the conditions of, a disposal licence issued for the purpose under this Part or is otherwise authorized by subsection (2) of that section.

(2) Subject to subsection (3), a person to whom a notice has been given under subsection (1) is, for the purposes of section 27A (1), deemed to know that any discharge or deposit to which the notice applies is likely to lead to the impairment of the physical, chemical or biological condition of the waters as referred to in section 27A (1) (a), whether or not that person is aggrieved by the giving of the notice.

(3) The Minister may, by notice in writing, vary or cancel any notice under subsection (1) and a notice so varied shall have effect accordingly. ”.

6. Section 27D of the principal Act is amended in subsection (2) by inserting after paragraph (c) the following paragraph—

Section 27D  
amended.

“ (ca) as to the provision and maintenance of monitoring equipment in such positions as the Minister considers appropriate for monitoring—

(i) the effect on any surface or underground waters of any discharge or deposit pursuant to a disposal licence; or

(ii) the effectiveness of any measures taken to prevent matter discharged or deposited pursuant to a disposal licence from impairing the physical, chemical, or biological condition of waters referred to in section 27A (1) (a), and the keeping of records and furnishing to the Minister of returns of information obtained by means of that equipment; ”.

7. Section 27F of the principal Act is amended in subsection (1) by inserting before paragraph (a) the following paragraphs—

Section 27F  
amended.

“ (aa) by the terms of a direction contained in a notice given under section 27A (4);

(ab) by a decision of the Minister to give a notice under section 27AA; ”.

8. Section 27G of the principal Act is amended in subsection (1) by deleting “subterranean” and substituting the following—

Section 27G  
amended.

“ underground ”.

Section 28  
amended.

9. Section 28 of the principal Act is amended in subsection (1) by deleting “, acting with the advice of the Commissioners”.

Section 29  
amended.

10. Section 29 of the principal Act is amended by deleting “, acting with the advice of the Commissioners”.

Section 40  
amended.

11. Section 40 of the principal Act is amended—

- (a) in subsection (1), by deleting “per hectare”;
- (b) in the proviso to subsection (1), by deleting “if the Commissioners certify that such land is, in their opinion, unsuitable for irrigation, nor”;
- (c) by inserting after the proviso to subsection (1) the following subsections—

“ (1a) The Minister may declare land to be irrigable land for the purposes of this Act and any land that was, immediately before section 11 of the Rights in Water and Irrigation Amendment Act 1984 came into operation, certified by the Commissioners appointed under this Act as in force before that section came into operation to be suitable for irrigation is deemed to have been declared by the Minister under this subsection to be irrigable land, but the Minister may declare that any land declared or deemed to have been declared to be irrigable land shall cease to be irrigable land for the purposes of this Act and any such declaration shall have effect according to its tenor.

(1b) In making a declaration under subsection (1a) the Minister may have regard to the suitability of the land



for irrigation, the proximity of the boundaries of the land to works or proposed works from which water could be supplied to the land, the availability of water for irrigation in the District, and such other factors as he considers relevant. ”;

- (d) in subsection (2), by deleting “subsection (3)” and substituting the following—

“ subsections (3) and (3a) and section 42AA ”; and

- (e) by inserting after subsection (3) the following subsection—

“ (3a) Irrigation rates under this Act may be based on a system of rating on the area or on such other system of rating as is approved by the Minister. ”.

12. Section 41 of the principal Act is amended by inserting after “quantities,” the following—

Section 41  
amended.

“ at such charges, if any, ”.

13. Section 42 of the principal Act is amended in subsection (3) by deleting “All” and substituting the following—

Section 42  
amended.

“ Subject to section 42AA, all ”.

14. After section 42 of the principal Act the following section is inserted—

Section 42AA  
inserted.

“ 42AA. (1) A person who is liable to pay money due for water rates or for water supplied—

Discounts  
and  
additional  
charges.

- (a) may, if payment in full of the total amount due is made within such period or by such date as is pre-

scribed for the purpose, be allowed a discount of such a kind as is prescribed;

- (b) may pay the amount due by instalments to the extent and in the manner provided for in the by-laws, but a person who chooses to pay by instalments an amount due may be required also to pay such additional charges as are prescribed; and
- (c) shall, subject to paragraph (b), if he does not pay the money in full within the period or by the date when payment is due, be liable to pay such penalties as are prescribed.

(2) Additional charges and penalties imposed under this section in respect of moneys due for water rates or for water supplied shall be deemed to be part of the amount due for water rates or water supplied, as the case may be, for the purposes of the recovery provisions of this Part. ”.

Section 59  
amended.

15. Section 59 of the principal Act is amended in subsection (1) by inserting after paragraph (7) the following paragraphs—

“ (7a) Prescribing fees payable for the issue upon request of statements as to moneys due or paid for rates or for water supplied under this Act, prescribing fees for the reading of measuring instruments upon request, and making provision as to the recovery of such fees.

(7b) Prescribing discounts, additional charges, and penalties payable in respect of payments for water rates and charges for water supplied. ”.

16. Section 62 of the principal Act is amended in subsection (1) by deleting "on the advice of the Commissioners and". Section 62  
amended.

17. Section 66 of the principal Act is amended by inserting after subsection (4) the following subsection— Section 66  
amended.

" (5) This section does not apply to a notice under section 76. "

18. After section 75 of the principal Act the following section is inserted— Section 76  
inserted.

" 76. (1) In this section—

Infringement  
notices.

"alleged offence", in relation to an infringement notice, means offence to which the infringement notice relates;

"alleged offender", in relation to an infringement notice, means the person to whom the infringement notice is given;

"authorized person" means a person authorized under subsection (10) to give infringement notices;

"designated person" means a person designated, or of a class designated, under subsection (10);

"infringement notice" means a notice given under subsection (2);

"modified penalty", in respect of an offence to which an infringement notice relates, means the amount of money specified in the notice as being the modified penalty for that offence;

“officer” has the same meaning as is given to that expression by section 5 of the Public Service Act 1978;

“prescribed” means prescribed by regulations made under this section;

“prescribed person” means a person prescribed to be a prescribed person for the purposes of this section.

(2) An authorized person who has reason to believe that a person has committed an offence against this Act that is prescribed to be an offence that may be dealt with under this section may give to that person a notice in the prescribed form informing him that if he does not wish to have a complaint of the alleged offence heard and determined by a court he may, within a period of 21 days after the giving of the notice, pay to a person specified in the notice, other than the person giving the notice, the amount of money specified in the notice as being the modified penalty for that offence.

(3) In an infringement notice—

(a) the amount of money specified as being the modified penalty for an offence to which the infringement notice relates shall be the amount that is, when the infringement notice is given, for the time being prescribed to apply in respect of the offence if it is dealt with under this section; and

(b) the persons specified as being persons to whom the modified penalty may be paid shall be designated persons.

(4) An infringement notice may be given to an alleged offender personally at or about the time the alleged offence is believed to

have been committed or, where the offence is one that is committed by the owner or occupier of land in relation to which the offence is committed, by posting it to him at his address as shown in a rate book kept under this Act.

(5) A person to whom an infringement notice is given may decline to be dealt with under this section and, if the modified penalty is not paid within the period specified in the notice or within such further time as may, whether before or after the expiry of that period, be allowed by a prescribed person, is deemed to have declined to be so dealt with.

(6) A prescribed person may, whether or not the modified penalty has been paid, withdraw an infringement notice, other than an infringement notice given by that person, at any time within a period of 28 days after it was given by sending to the alleged offender a notice in the prescribed form, signed by the prescribed person, advising the alleged offender that the infringement notice has been withdrawn.

(7) Any amount paid by way of modified penalty pursuant to an infringement notice that has been withdrawn under subsection (6) shall be refunded.

(8) Where, pursuant to an infringement notice, the modified penalty has been paid in accordance with the notice within the period specified therein or within such further time as is allowed and the infringement notice has not been withdrawn under subsection (6), no proceedings shall be brought or penalty shall be imposed that could not be brought or imposed if the person to whom the infringement notice was given had been convicted by a court of, and punished for, the alleged offence.

(9) The amount of any modified penalty paid pursuant to an infringement notice shall, subject to subsection (7), be dealt with as if it were a penalty imposed summarily under the Justices Act 1902.

(10) The Minister may—

- (a) in writing, authorize persons who are officers of the Department to give infringement notices;
- (b) by notice published in the *Gazette* designate persons or classes of persons who are officers as persons to whom payment may be made of any modified penalty,

and may, in like manner, revoke any such authorization or notice.

(11) The Minister shall issue to each authorized person a certificate in the prescribed form which that person shall produce whenever required to do so by a person to whom he has given or is about to give an infringement notice.

(12) The Governor may make regulations prescribing all matters that are required or permitted by this section to be prescribed, or are necessary or convenient to be prescribed, for giving effect to the purposes of this section. ”.

Various  
penalties  
increased.

19. The provisions of the principal Act referred to in column 1 of the following table are amended by deleting the penalty set out in respect thereof in column 2 of that table and substituting therefor the corresponding penalty set out in column 3 of that table.

TABLE.

Column 1. <i>Provision.</i>	Column 2. <i>Existing penalty.</i>	Column 3. <i>New penalty.</i>
section 27A (3)	"one thousand dollars"	"\$2 000"
	"one hundred dollars"	"\$200"
section 39A	"two hundred dollars"	"\$1 000"
section 60 (1)	"forty dollars"	"\$1 000"
	"ten dollars"	"\$250"
section 70	"forty dollars"	"\$1 000"
section 71	"two hundred dollars"	"\$2 000"
section 72	"two hundred dollars"	"\$2 000"

20. Sections 4 to 7 of the amending Act are repealed.

Sections 4  
to 7 of  
amending  
Act  
repealed.

21. Sections 10 to 13 of the amending Act are repealed.

Sections 10  
to 13 of  
amending  
Act  
repealed.

22. Section 27 of the amending Act is amended as to the new section 45M (2) by deleting "the provisions of section eleven of this Act" in paragraph (a) and substituting the following—

Section 27 of  
amending  
Act  
amended.

" section 26H (1) ".