

Queensland



ANNO VICESIMO

ELIZABETHAE SECUNDAE REGINAE

No. 81 of 1971

**An Act Relating to the Preservation, Restoration and
Enhancement of the Quality of the Waters of the
State and for purposes connected therewith**

{ASSENTED TO 22ND DECEMBER, 1971}

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. **Short title.** This Act may be cited as the *Clean Waters Act 1971*.
2. **Commencement.** (1) Except as provided in subsection (2) of this section, and subject to sections 10 and 11 of this Act, this Act shall come into operation on a date to be fixed by Proclamation by the Governor, published in the Gazette.
(2) This Act shall not have application to the discharge of wastes from vessels into tidal waters (including the waters of the sea within the territorial limits of the State) until a date to be fixed for the purpose by Proclamation by the Governor, published in the Gazette.

3. *Parts of Act.* This Act is divided into Parts, and Divisions of Parts, as follows:—

- PART I—PRELIMINARY (ss. 1-8);
- PART II—ADMINISTRATION (ss. 9-10);
- PART III—WATER QUALITY COUNCIL (ss. 11-22);
- PART IV—REQUIREMENTS FOR WATER POLLUTION CONTROL;
 - Division I—Licensing Provisions* (ss. 23-30);
 - Division II—Other Provisions* (ss. 31-37);
- PART V—GENERAL PROVISIONS (ss. 38-55).

4. *Crown bound.* This Act is binding on the Crown.

5. *Effect of this Act on other Acts generally.* (1) No provision of, or licence, notice or exemption under, this Act shall be deemed to repeal by implication, or to authorize, justify or excuse any act or omission which is a contravention of or a failure to comply with, or to affect otherwise howsoever, any provision of any other Act or of any Order in Council, rule, regulation, by-law or other instrument whatsoever under any other Act:

Provided that where a provision of any other Act or of any Order in Council, rule, regulation, by-law or other instrument whatsoever under any other Act is inconsistent with a provision of or with a licence, notice or exemption under this Act, then the latter shall prevail.

(2) This section applies subject to sections 6 and 7 of this Act.

6. *Effect of this Act on certain agreements.* (1) (a) Where the occupier of any premises is a party to an agreement made under and in accordance with the provisions of section 10A of the *Health Act 1937-1971* prior to the coming into operation of this Act, he shall not be guilty of an offence under this Act for any act or thing done or omitted to be done by him under and in accordance with the terms, provisions and conditions of the agreement during the period it has effect.

(b) An agreement shall not be entered into pursuant to the said section 10A after the coming into operation of this Act.

(2) (a) Any company which is a party to an agreement (whether subsequently varied or not), a copy or draft of which is set out in the Schedule to any of the Acts enumerated in paragraph (b) of this subsection shall not be guilty of an offence under this Act for any act or thing done or omitted to be done by it under and in accordance with the terms, provisions and conditions of the agreement during the period it has effect.

(b) The Acts referred to in paragraph (a) of this subsection are—

- (i) *The Commonwealth Aluminium Corporation Pty. Limited Agreement Act of 1957;*
- (ii) *The Alcan Queensland Pty. Limited Agreement Act of 1965;*
- (iii) *The Thiess Peabody Mitsui Coal Pty. Ltd. Agreements Acts, 1962 to 1965;*
- (iv) *Central Queensland Coal Associates Agreement Act 1968;* and
- (v) *Greenvale Agreement Act 1970-1971.*

7. Effect of this Act on The Pollution of Waters by Oil Acts 1960 to 1961. (1) Nothing in this Act shall derogate from or affect the provisions of *The Pollution of Waters by Oil Acts 1960 to 1961*.

(2) This Act does not apply with respect to a discharge of oil into waters such as to constitute an offence under *The Pollution of Waters by Oil Acts 1960 to 1961* but, without limiting the generality of its application, it applies with respect to a discharge into any waters from any premises or land of any mixture containing oil where such mixture also contains other wastes.

(3) Where the discharge into any waters from any premises on land of any mixture containing oil referred to in subsection (2) of this section constitutes an offence under both this Act and *The Pollution of Waters by Oil Acts 1960 to 1961* the offender may be prosecuted and punished under either this Act or the said Acts but so that he is not twice punished for the same offence.

8. Interpretation. In this Act, unless the contrary intention appears,—

“chairman” means the chairman of the Water Quality Council of Queensland: The term includes any person for the time being acting in the office of the chairman in accordance with this Act;

“control equipment” includes—

- (a) any apparatus for the treatment or disposal of wastes;
- (b) any device to measure or record or to measure and record the quantity or quality or the quantity and quality of wastes;
- (c) any other device or any structure used for the purpose of preventing, abating or mitigating water pollution;

“Council” means the Water Quality Council of Queensland constituted under this Act;

“deputy chairman” means the deputy chairman of the Water Quality Council of Queensland: The term includes any person for the time being acting in the office of the deputy chairman in accordance with this Act;

“Director” means the Director of Water Quality appointed pursuant to this Act: The term includes any person for the time being acting in the office of the Director;

“discharge” means any discharge or escape, howsoever caused or occasioned;

“Environmental Control Council” means the Environmental Control Council established under the *State Planning and Development, Public Works Organisation, and Environmental Control Act 1938-1970*;

“inspector” means an inspector appointed under this Act: The term includes a person appointed by the Minister to act as an inspector and a person acting under the direction of or in aid of an inspector;

“licence” means a valid and unexpired licence issued under this Act, whether it is an original or a renewed licence: Any condition attached pursuant to this Act to a licence shall be regarded as forming part of that licence: The term includes a transferred licence;

- “licensee” means the holder of a licence;
- “Local Authority” means a Local Authority constituted under the *Local Government Act 1936-1971*: The term includes Brisbane City Council constituted under the *City of Brisbane Act 1924-1969*;
- “member” means a member of the Water Quality Council of Queensland, appointed under this Act;
- “Minister” means the Minister for Local Government and Electricity or other Minister of the Crown for the time being charged with the administration of this Act;
- “occupier” includes—
- (a) in relation to any premises, the person in occupation or control of the premises or, if there is no person in occupation or control, the person entitled to possession thereof;
 - (b) in relation to any premises where different parts are occupied by different persons, in relation to any such part, the person in occupation or control of that part or, if there is no person in occupation or control, the person entitled to possession of that part;
 - (c) in relation to the discharge of wastes into any waters from a stormwater drain or sewer, the Local Authority or other person responsible for the maintenance of such stormwater drain or sewer; and
 - (d) in relation to a place for the storage, treatment or disposal of wastes, the Local Authority or other person responsible for such storage, treatment or disposal;
- “oil” has the same meaning as in *The Pollution of Waters by Oil Acts 1960 to 1961*;
- “Part” means Part of this Act;
- “practicable” means reasonably practicable having regard, amongst other things, to local conditions and circumstances, and to the current state of technical knowledge;
- “premises” includes messuages, buildings, lands, easements and tenements of any tenure, any stormwater drain or sewer, any place for the storage, treatment or disposal of wastes, any other place, and any vehicle or vessel;
- “secretary” means the secretary to the Water Quality Council of Queensland, appointed under this Act: The term includes any person appointed to act in, or for the time being performing the duties of, the office of the secretary;
- “statutory body” means any public body which the Governor in Council may from time to time by Order in Council under this Act declare to be a statutory body for the purposes of this Act;
- “town planning scheme” means a town planning scheme prepared by a Local Authority under the *Local Government Act 1936-1971*: The term includes the town plan for the City of Brisbane under the *City of Brisbane Town Planning Act 1964-1969*;
- “vehicle” includes any motor vehicle, omnibus, coach, bicycle, train, aeroplane or other means of conveyance or transit;

- “ vessel ” includes any ship, boat or other description of vessel used or designed for use for any purpose on the sea, in navigation, or on any waterway;
- “ wastes ” means any solid, gas or liquid, with or without matter in suspension or solution therein, which is capable of causing water pollution: The term includes sewage, household refuse, and materials used or produced in manufacturing processes, mining, agriculture, commerce or any trade, business or calling;
- “ waters ” means all waters of the State, including underground waters, tidal waters (including the waters of the sea within the territorial limits of the State), lakes, water storages, rivers, streams and watercourses: The term includes the bed and banks of any such waters;
- “ water pollution ”, means any change in the properties of any waters such as to cause or be likely to cause a nuisance or render such waters harmful, detrimental or injurious to public health, safety or welfare or to domestic, commercial, industrial, agricultural, recreational or other legitimate uses thereof or to livestock, wild animals, birds, fish or other aquatic life: The term does not include any change in the properties of any waters caused by discharge of wastes by a licensee or a person on whom a notice has been served under section 25 of this Act where such wastes are discharged in conformity with the terms and conditions of the relevant licence or notice, or any exemption granted under section 27 of this Act;
- “ water quality criteria ” means limits or tolerances prescribed either generally or specifically under this Act relating to the effects of various wastes and water quality characteristics on different uses of water;
- “ water quality standards ” means limits or tolerances of water quality prescribed either generally or specifically under this Act in relation to the discharge of wastes and the quality of waters: The term includes limits or tolerances so prescribed in relation to the quantity and rate of discharge of wastes to any waters.

PART II—ADMINISTRATION

9 Administration of this Act (1) This Act shall be administered by the Minister and, subject to the Minister, by the Council.

The Director shall be the chief administrative officer for the purposes of this Act and shall be subject to the Minister and the Council accordingly.

(2) The Minister may enter into arrangements with—

- (a) a Minister of the Crown of another State or the Commonwealth;
- (b) a University or Institute;
- (c) any other body or person

with respect to any investigation, study or research which he considers necessary or desirable for the purposes of this Act.

- (3) A report shall be made annually—
(a) by the Director to the Council; and
(b) by the Council to the Minister

on the administration of this Act for the year covered by the report.

The Minister shall present to the Legislative Assembly and table therein the report made to him by the Council.

10. Officers. (1) The Governor in Council may appoint under and for the purposes of this Act a Director of Water Quality, a secretary to the Council, and such inspectors and other officers as he deems necessary for the effectual administration of this Act.

Appointees as aforesaid shall be appointed and hold their respective offices under, subject to, and in accordance with the *Public Service Act* 1922-1968, and may be appointed at any time after the passing of this Act.

(2) An officer appointed under this Act may hold his appointment under this Act in conjunction with any other position in the Public Service.

(3) The Minister may at any time by writing under his hand appoint a person for a specified period and for a particular purpose to act as an inspector, and any person so appointed shall have and may exercise, during the specified period and for the particular purpose, and subject to any other limitations stipulated in his appointment, all the functions, authorities, powers and duties of an inspector.

(4) An appointment as the secretary or an inspector may be made by the appointment of the holder for the time being of an office under the Crown in right of this State, specifying the office but without naming the holder; and in every such case each successive holder of the office in question and each person who for the time being occupies, or performs the duties of, that office shall, without further appointment or other authority, and while he holds or occupies or performs the duties of that office, be the secretary or an inspector, as the case may be, in terms of such appointment.

(5) Every inspector shall be furnished with a certificate of appointment signed by the Minister or the chairman and upon entering any place shall, if required, produce such certificate to the owner or occupier of the place.

(6) A reference in this Act to an inspector shall be construed to include reference to—

- (a) the person who holds the appointment of Director and a person who is acting in the office of Director; and
(b) a person who, as a scientist or engineer, aids in the effectual administration of this Act.

PART III—WATER QUALITY COUNCIL

11. Water Quality Council. For the purposes of this Act there shall be constituted a body called the "Water Quality Council of Queensland".

The Council shall be constituted by, and on and from the date of, the first appointment of the members thereof, other than the *ex officio* members, and may be constituted at any time after the passing of this Act.

12. Membership of Council. (1) The Council shall consist of—

- (a) the Chief Engineer, Department of Local Government, who shall be, *ex officio*, chairman;
- (b) the Director, who shall be, *ex officio*, deputy chairman;
- (c) one representative of each of the following departments of the Government of Queensland—
 - (i) Irrigation and Water Supply Commission;
 - (ii) Primary Industries;
 - (iii) Harbours and Marine;
 - (iv) Mines;
 - (v) Health;
 - (vi) Co-ordinator-General of Public Works;
 - (vii) Industrial Development;
 - (viii) Railways;
- (d) one representative of secondary industry nominated by the Queensland Chamber of Manufactures;
- (e) one representative of primary industry nominated by the Council of Agriculture;
- (f) one representative of Local Authorities nominated by the executive committee of the Local Government Association of Queensland (Incorporated);
- (g) one representative of the Queensland Institute of Technology, Brisbane, nominated by the Council of the Institute; and
- (h) one representative of Brisbane City Council nominated by that Council.

(2) The Minister of the Crown in each case charged with the administration of a department referred to in paragraph (c) of subsection (1) of this section, for the purposes of the first constitution of the Council and as often as is necessary to ensure representation of the department at all times, shall nominate a person to be the department's representative on the Council.

(3) Each Minister of the Crown as aforesaid may at any time revoke the nomination of the department's representative on the Council and, if he does so, shall nominate another person to be the department's representative in the stead of the previous representative.

(4) Every person nominated to represent a department on the Council shall be nominated from within the department and shall continue to so represent the department until—

- (a) he ceases to be employed upon a full-time basis within the department; or

(b) the Minister of the Crown concerned nominates another person to be the department's representative in his stead, whichever event first occurs.

(5) Upon the nomination of a department's representative on the Council, the Minister of the Crown concerned shall give to the Minister, or shall cause to be given to him, notification of the representative's identity.

(6) The members, other than the *ex officio* members, shall, subject to nomination where prescribed, be appointed by the Governor in Council by notification published in the Gazette.

(7) During any absence of the chairman, the deputy chairman shall act in his place and, whilst so acting, shall have and carry out and may exercise and perform all the functions, authorities, powers and duties of the chairman.

13. Tenure of office of certain members. (1) Subject to this Act, each member referred to in paragraphs (d), (e), (f), (g) and (h) of subsection (1) of section 12 of this Act shall—

- (a) hold office for a period of three years; and
- (b) be eligible for re-appointment.

(2) The office of each member referred to in paragraphs (d), (e), (f), (g) and (h) of subsection (1) of section 12 of this Act shall—

- (a) commence on the date of his appointment thereto; and
- (b) become vacant if such member—
 - (i) dies or becomes mentally ill;
 - (ii) becomes bankrupt or compounds with his creditors, or otherwise takes advantage of the laws in force for the time being relating to bankruptcy;
 - (iii) is absent without leave granted by the Council from three consecutive ordinary meetings of the Council of which due notice has been given to him;
 - (iv) resigns his office by writing under his hand delivered to the Minister (which resignation shall be complete and take effect from the time when it is received by the Minister);
 - (v) is convicted of an indictable offence or of an offence against this Act; or
 - (vi) is removed from office by the Governor in Council by notification published in the Gazette on the grounds of mental or physical incapacity to perform his duties or because of any conduct which, in the opinion of the Governor in Council, shows the member to be unfit to be a member of the Council.

(3) The attendance of a member at the time and place appointed for a meeting shall be deemed to constitute presence at a meeting notwithstanding that by reason that no quorum is present no meeting is actually held on that day, and the secretary shall enter in the minute book the names of all members who so attend.

14. Extraordinary vacancies. (1) When a vacancy arises in the office of any of the members referred to in paragraphs (d), (e), (f), (g) and (h) of subsection (1) of section 12 of this Act by death, resignation or otherwise howsoever, the Governor in Council may appoint by notification published in the Gazette, a person having a like qualification, or being representative of the like interest as his predecessor, as a member to hold office for the balance of his predecessor's term of office.

(2) Any such appointment shall be made on the nomination of the person or body by whom the nomination of the person whose office has been vacated was made.

15. Nomination of certain members. Nomination under this Part of each member referred to in paragraphs (d), (e), (f), (g) and (h) of subsection (1) of section 12 of this Act shall be made within the time and in the manner prescribed, and in default of any person or body entitled to make any such nomination doing so within such time and in such manner, the Governor in Council may appoint any person to the Council as if that person had been duly nominated by the person or body entitled to make the nomination.

16. Proceedings at Council meetings. (1) (a) The Council shall meet as often as is necessary for the due administration of this Act, and at such times and places as it thinks fit, and shall conduct its business in such manner as may be prescribed or, in so far as is not prescribed, as it may from time to time determine.

(b) A majority of the number of members of which the Council is constituted under this Act shall form a quorum at any meeting of the Council and any duly convened meeting at which a quorum is present shall be competent to transact any business of the Council and shall have and may exercise all of the functions, authorities and powers, and may perform all of the duties of the Council.

The decision of a majority of the members present at any meeting at which there is a quorum shall be the decision of the Council.

(2) (a) The chairman shall preside at all meetings of the Council at which he is present. In the absence of the chairman, the deputy chairman shall preside.

If the chairman and the deputy chairman are unable for any reason to attend any duly convened meeting of the Council, the members present shall appoint one of their number to preside at the meeting.

The member who presides at a meeting of the Council in place of the chairman shall have and may exercise all the powers and authorities of the chairman while he so presides.

(b) The person presiding at any meeting of the Council shall have a vote, and when there is an equal division of votes upon any question he shall have a second or casting vote.

(3) The Council shall cause full and accurate minutes to be kept of the proceedings of its meetings.

(4) No act or proceeding of the Council shall be invalid or illegal in consequence only of the number of the members of the Council not being complete at the time of such act or proceeding.

All acts and proceedings of the Council shall, notwithstanding any defect in the appointment of any member thereof, or that any member was disqualified or disentitled to act, be as valid as if every such member had been duly appointed and was qualified and entitled to act and had acted as a member of the Council and as if the Council had been properly and fully constituted.

17. Committees. (1) The Council may appoint such advisory committees or technical committees as it thinks fit to advise it on such matters within the scope of its functions as are referred to those committees by the Council.

(2) A person may be appointed to be a member of any such committee whether or not he is a member of the Council.

18. Allowances, etc. Each member of the Council and each member of any committee appointed under section 17 of this Act shall receive such allowances or fees, or allowances and fees, if any, as the Governor in Council may from time to time determine.

Any such determination may from time to time be revoked or amended.

Any such determination with respect to any person may differ, according to class of payment or rate or both class and rate and according to whether such person is a member of the Council or of a committee as aforesaid, from any determination with respect to any other person.

19. Where officers of Government Departments appointed. Where by or under any Act provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office, or prohibiting him from engaging in employment outside the duties of his office, such provision shall not operate to disqualify him from holding that office and also the office of chairman or deputy chairman or member of the Council under this Act, or a member of any committee appointed under section 17 of this Act, or from accepting and retaining any remuneration, fees or allowances payable to a member of the Council or a member of any such committee under section 18 of this Act.

20. Functions of Council. (1) It shall be the function of the Council -

- (a) to carry out or commission surveys, investigations and research into matters relating to quality of waters, and report and make recommendations to the Minister thereon;
- (b) to collect and disseminate information relating to quality of waters;
- (c) to maintain surveillance over discharges of wastes;
- (d) to advise other organizations and persons regarding the prevention, mitigation or abatement of water pollution and matters related thereto;
- (e) to perform any other functions prescribed.

(2) The Council may initiate and refer to the Minister—

- (a) recommendations for altering or repealing this Act or any provision hereof;

- (b) recommendations for making, altering or repealing any regulation, Proclamation or Order in Council under this Act;
- (c) recommendations relating to the administration of this Act;
- (d) recommendations for the prevention, abatement or mitigation of water pollution and the preservation, restoration and enhancement of quality of waters.

(3) It shall be the duty of the Council to consider and advise the Minister upon such matters and questions as the Minister may from time to time refer to it relating to--

- (a) any proposal for altering or repealing this Act or any provision hereof;
- (b) any proposal for making, altering or repealing any regulation, Proclamation or Order in Council under this Act;
- (c) the administration of this Act;
- (d) the prevention, abatement or mitigation of water pollution and the preservation, restoration and enhancement of quality of waters.

(4) The Council shall--

- (a) investigate matters referred to it by the Environmental Control Council and advise that Council thereon;
- (b) refer such matters as it deems expedient to the Environmental Control Council,
- (c) provide information in relation to its activities to assist the operation of the Environmental Control Council.

(5) The Council may do such supplemental, incidental or consequential acts and things as may be necessary or expedient for the exercise and performance of its functions, authorities, powers, duties and responsibilities.

21. Delegation by Council. (1) The Council may delegate to the chairman or the Director or any other member the exercise or performance of such powers (other than this power of delegation), functions, authorities or duties conferred or imposed on the Council by or under this or any other Act as may be specified in the instrument of delegation.

(2) A function, authority, power or duty, the exercise or performance of which has been delegated under this section may, while the delegation remains unrevoked, be exercised or performed from time to time in accordance with the terms of the delegation by the delegate to whom the exercise or performance thereof has been delegated.

(3) A delegation under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the functions, authorities, powers or duties delegated or as to time or circumstances as may be specified in the instrument of delegation.

(4) Notwithstanding any delegation made under this section, the Council may continue to exercise or perform all or any of the functions, authorities, powers or duties delegated.

(5) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing done had been done or suffered by the Council.

22. Power of the Governor in Council to rescind decisions, determinations and orders of the Council. (1) The Governor in Council may at any time rescind any decision, determination, or order of the Council or its delegate and may, in relation to any such rescission, give such directions to the Council or its delegate as to him seem meet.

(2) Every decision, determination, or order of the Council or its delegate rescinded by the Governor in Council shall be absolutely void as from the making of the decision, determination, or order as if it had not been made.

(3) Any further decision, determination, or order made by the Council or its delegate consequent upon any directions of the Governor in Council under subsection (1) of this section may be appealed against in all respects as if it were the original decision, determination, or order of the Council or its delegate upon the matter involved therein, and any time limited for such appeal shall begin to run from the date of such further decision, determination or order.

PART IV—REQUIREMENTS FOR WATER POLLUTION CONTROL

Division I—Licensing Provisions

23. Premises to be licensed. (1) Subject to subsection (2) of this section and except as otherwise provided by this Act, a person who is the occupier of any premises from which wastes are discharged to any waters or from which wastes are transported elsewhere for disposal in such a manner as to cause or be likely to cause water pollution and who is not the holder of a licence issued in respect of such discharge or transport for disposal in manner aforesaid of such wastes from those premises is guilty of an offence against this Act.

(2) Subsection (1) of this section does not apply to any person who—

- (a) at the commencement of this Act is the occupier of premises from which wastes are discharged to any waters or transported for disposal in manner aforesaid and who within six months after such commencement makes application for a licence in respect of the discharge or transport for disposal in manner aforesaid of such wastes and who is not served with a notice under section 25 of this Act, until his application is finally determined;
- (b) is the occupier of premises from which wastes are discharged to any waters or transported for disposal in manner aforesaid—
 - (i) if in the discharge or transport for disposal in manner aforesaid of those wastes, such person complies in all respects with the terms and conditions of a notice served on him by the Council pursuant to section 25 of this Act;
 - (ii) if such wastes constitute the effluent from a septic tank installation serving not more than one hundred persons at any one time and that person holds a subsisting permit from a Local Authority authorizing the installation and use of such septic tank installation pursuant to the Standard Sewerage By-laws set forth in *The Sewerage, Water Supply, and Gasfitting Acts 1949 to 1967*;
 - (iii) where that person has made application under the provisions of section 24 of this Act for the transfer to him of a licence in respect of the discharge to any waters or transport for

disposal in manner aforesaid of such wastes from those premises within the prescribed period after he became the occupier thereof, until his application has been finally determined, provided that, in the meantime, he complies in every respect with every condition attached to the said licence;

- (iv) if, in the case of such wastes being transported, they are transported and disposed of by a Local Authority in accordance with the conditions imposed by the Council under section 36 of this Act;
- (v) where that person has made application pursuant to section 24 of this Act for a review of a variation of conditions imposed under a licence granted by the Council under that section or the attaching of new conditions thereto, or of a refusal by the Council to renew or transfer a licence or of a decision of the Council to revoke any condition of a licence, until his application has been finally determined, provided that, in the meantime, he complies in every respect with every condition attached to the said licence other than any condition the subject of application for review.

24. Licences. (1) (a) An application for a licence or for the renewal or transfer of a licence in respect of the discharge of wastes from any premises to any waters or the transport elsewhere of wastes from any premises for disposal in such a manner as to cause or be likely to cause water pollution shall be made to the Council in or to the effect of the prescribed form and shall be accompanied by—

- (i) the prescribed application fee; and
- (ii) in the case of an application for a licence, written evidence that the Local Authority in whose Area the premises are situated will not permit the discharge of the wastes in question into its sewerage or will not undertake the transport and disposal of such wastes elsewhere.

(b) The secretary shall refer such application to the Council with a report and recommendation by the Director in relation thereto.

(c) An applicant for a licence or for the renewal or transfer of a licence shall furnish such other information as the Council considers necessary or relevant in respect of the application.

(2) The Council—

- (a) may grant, or refuse, or grant subject to such conditions as it thinks fit, an application for a licence or for a renewal or transfer thereof, and if it grants such application subject to conditions, such conditions shall be attached to the licence; and the Council shall give notice in writing to the applicant of its decision in respect of the application:

Provided that the Council shall not grant any application for a licence in respect of premises the use or intended use of which, as disclosed in the application or otherwise ascertained, would contravene any town planning scheme, Order in Council, or ordinance or by-law of any Local Authority respecting the use or development of land;

- (b) may, during the currency of a licence, revoke or vary any conditions attached to the licence, or attach new conditions to it (and either in addition to or in substitution for the

conditions attached thereto or any of them). The Council shall give notice in writing to the licensee of any such revocation or variation or of the attachment to the licence of any such new conditions;

- (c) shall have regard to the character and flow of the receiving water, practicable methods of treating the wastes, the present and future requirements for quality and quantity of such water, any prescribed water quality plans, water quality standards, water quality criteria and water quality objectives, any policies or requirements of the Government of the State regarding conservation of the environment, any policies of the Government of the State regarding location of industries, and any other relevant information available to it.

(3) Without prejudice to the generality of the foregoing provisions of this section, any conditions attached to a licence in respect of the discharge of wastes from premises to any waters or the transport elsewhere of wastes from premises for disposal in such a manner as to cause or be likely to cause water pollution may—

- (a) require the installation and operation, within the time specified by the Council, of works for the prevention, abatement or mitigation of any water pollution which in the opinion of the Council is or might be caused by such discharge or transport for disposal in manner aforesaid of such wastes;
- (b) **prescribe water quality standards** which shall apply to the discharge or disposal of such wastes;
- (c) **prescribe—**
- (i) **the period within which water quality standards referred to in paragraph (b) of this subsection shall be achieved;**
- (ii) a program for progressive compliance with water quality standards referred to in paragraph (b) of this subsection extending over a period to be determined by the Council, such period in either case (hereinafter in this paragraph referred to as "the said period") not exceeding four years:

Provided that, where the said period is a period of less than four years, the Council may in its discretion grant any extensions to the said period not exceeding three months at any one time to provide for unforeseen delays for which the licensee has not been responsible including, in respect of a program for progressive compliance as aforesaid, any such extensions in respect of any part of such compliance, but so that the said period and any extensions as aforesaid do not exceed four years in the aggregate:

Provided further that the period of four years may, in any case, be extended by the Governor in Council either as one extension or from time to time, but so that in no case shall the said period with extensions exceed seven years;

- (d) require that a person holding a qualification approved by the Council shall be employed to operate any works required to be installed pursuant to paragraph (a) of this subsection;
- (e) require the occupier of such premises to install control equipment for measuring or recording or measuring and recording the quantity or quality or the quantity and quality of such wastes and to provide and maintain facilities for taking samples thereof;

- (f) require that the wastes be treated in such manner as will render them or any part thereof capable of re-use by some other person;
- (g) require that the engineering design, working plans and specifications of any works required to be installed pursuant to paragraph (a) of this subsection shall be prepared by and the installation of such works shall be carried out under the supervision of a registered professional engineer within the meaning of *The Professional Engineers Act of 1929*.

(4) (a) Without prejudice to his right of appeal under section 41 of this Act, a person who is an applicant for a licence or for the renewal or transfer of a licence or to whom a notice is given under this section or under section 25 of this Act, and who considers—

- (i) that alternative conditions would be as effective, for the purposes of this Act, as the conditions set out in or determined by the Council in respect of the licence or notice; or
- (ii) that, in the case of refusal to grant or renew or transfer a licence, or of revocation of any condition of a licence, the observance of certain conditions would permit compliance with the requirements of this Act,

may seek a review by the Council of such conditions or refusal or revocation.

(b) An application for review shall be made to the Council in or to the effect of the prescribed form within thirty days after notice is given to him of such conditions or refusal or revocation or notice is otherwise given to him under this section or under section 25 of this Act, and shall be accompanied by—

- (i) the prescribed fee; and
- (ii) full details of the conditions and technical information considered by the applicant to justify the review.

(c) The secretary shall refer such application to the Council with a report and recommendation by the Director in relation thereto.

(d) The applicant shall furnish such other information as the Council considers necessary or relevant in respect of the application.

(e) Subject to appeal under section 41 of this Act, the decision of the Council on an application for review shall be final and binding.

(5) In the case of an appeal under this Act against a decision of the Council with respect to the attaching of a condition to a licence or a condition attached to a licence under this section, any such condition shall not have force until—

- (a) the time limited for appealing against such condition has expired and, where an appeal against such condition has been made under this Act, until the court hearing the appeal confirms the decision of the Council in respect of such condition;

or, with respect to an application for review under subsection (4) of this section,—

- (b) the time limited for making an application for review under subsection (4) of this section has expired and, where an application has been so made, until the time limited for appealing

against the decision of the Council on that application has expired and, where an appeal against such decision has been made under this Act, until the court hearing the appeal confirms the decision of the Council,

whichever is the later.

(6) Subject as hereinbefore provided and subject to section 28 of this Act and to payment of the prescribed licence fee, a licence shall take effect from the date of issue thereof and shall expire on the thirtieth day of June next following.

(7) (a) A licensee who desires to obtain a renewal of his licence shall make his application in relation thereto in accordance with the provisions of subsection (1) of this section prior to the first day of June before the expiry thereof or of the subsisting renewal thereof, as the case may be, except where its date of issue is a date in June in any year in which case he shall make his application before the expiry thereof.

(b) Any such renewal of the licence shall, subject to payment of the prescribed licence renewal fee, take effect on and from the expiry date of the licence or, as the case may be, the next previous renewal thereof and, subject to section 28 of this Act, shall expire on the thirtieth day of June next following.

(8) Where a licensee ceases to be the occupier of any premises, the occupier of such premises may make application in accordance with the provisions of subsection (1) of this section for approval of the transfer to him of the licence in respect of such premises.

25. Notices authorizing discharge or transport of wastes. (1) The Council, by notice in writing served upon the occupier of any premises from which wastes are being discharged to any waters or from which wastes are being transported elsewhere for disposal in such a manner as to cause or be likely to cause water pollution and who is not the holder of a licence in respect of such discharge or transport for disposal in manner aforesaid of such wastes from those premises, may authorize such occupier to so discharge or transport those wastes as aforesaid for the period specified in the notice.

(2) Any notice served by the Council under subsection (1) of this section shall be subject to the condition that the occupier of the premises in question, unless he has already done so, shall, within the time fixed by the Council, apply for a licence under this Act in respect of the discharge or transport, as referred to in the said subsection (1), of such wastes and to such other conditions as the Council may deem expedient for the prevention, abatement or mitigation of water pollution.

26. Registers of licences, etc. The Council shall cause to be kept such registers of licences and exemptions granted under this Act and notices served under this Act as may be prescribed.

27. Conditions of licence, etc., to be observed, subject to exemption. (1) The occupier of any premises shall not discharge or permit or allow to be discharged from such premises to any waters, or transport elsewhere or permit or allow to be transported elsewhere from such premises for disposal in such a manner as to cause or be likely to cause water pollution, wastes other than in strict conformity with the conditions specified in

any licence issued, or notice served under section 25 of this Act, in respect of such discharge or transport for disposal in manner aforesaid, unless exempted by the Council pursuant to subsection (2) of this section.

(2) The Council may, in circumstances considered by it to be special circumstances and for a specified period and subject to such conditions as it deems expedient, grant an exemption in writing to the occupier from the requirement of strict conformity with the conditions or any of them specified in any licence issued, or notice served under section 25 of this Act, and, where it grants an exemption subject to conditions, such conditions shall be attached to the exemption.

(3) The Council may at any time revoke any such exemption or extend the period thereof or vary any conditions attached thereto (whether by revocation or alteration of any condition or by the addition of any new condition), and the Council shall give notice in writing to the occupier exempted of any such revocation, extension or variation.

(4) An occupier of any premises who has been granted any such exemption by the Council shall comply in every respect with every condition attached to the exemption.

(5) Subject as aforesaid, every licensee and every person on whom a notice has been served under section 25 of this Act shall comply in every respect with every condition attached to the licence or notice, as the case may be, and in force.

28. Cancellation and suspension of licence. (1) The Council may, with the approval of the Minister, cancel or suspend any licence granted by it—

- (a) if the licensee is convicted of an offence against this Act;
- (b) if the licensee fails in any respect to comply with the conditions subject to which the licence is granted; or
- (c) if the licence has been granted upon false or erroneous information.

(2) Suspension of a licence under this section shall be for such period as the Council deems fit and shall, for the period fixed by the Council, have the same effect as cancellation of the licence.

(3) Notice in writing of such cancellation or suspension shall be given by the Council to the licensee.

29. Forgery of licences, etc. Any person who—

- (i) forges or counterfeits any licence or any notice under section 25 of this Act or any exemption under section 27 of this Act;
- (ii) utters or makes use of any forged or counterfeit licence or notice under section 25 of this Act or exemption under section 27 of this Act;
- (iii) personates any person named in any licence, notice or exemption;
- (iv) falsely pretends to be an inspector; or
- (v) connives at any such forgery, counterfeiting, uttering, making use, personating or pretending as aforesaid,

is guilty of an offence against this Act and is liable to a penalty not exceeding \$400 or to imprisonment for a period not exceeding six months.

30. Fees. (1) The fee payable under this Division of this Part for a licence or any renewal thereof shall be such amount as may be prescribed, not exceeding \$2,000.

Where a licence is applied for subsequent to the thirty-first day of July in any year, the fee payable in respect of such licence shall be such amount as bears to the full fee the same proportion as the number of months (including the month in which the application is made) remaining in the period ending on the thirtieth day of June next following the date of such application bears to twelve.

(2) Different fees may be prescribed according to the quantity of wastes being or to be discharged to any waters, or being or to be transported elsewhere for disposal in such a manner as to cause or be likely to cause water pollution, from premises or such other factors as may be prescribed.

(3) Where the Council is satisfied that the water pollution from any premises would not be such as to warrant the payment of the prescribed fee, it may, upon the application of the occupier of such premises, remit in whole or in part the fee payable under this Division of this Part in respect of such premises.

(4) Where the aggregate of the fees that would, but for this subsection, have been payable for licences or renewals of licences or transfers of licences in respect of any premises under the control of any statutory body or Government Department of this State exceeds \$2,000, the aggregate of the fees payable for such licences or renewals of licences or transfers of licences shall be \$2,000.

(5) The fee payable in respect of the transfer of a licence shall be as prescribed.

(6) Where the aggregate of the fees that would, but for this subsection, have been payable for licences or renewals of licences or transfers of licences in respect of any premises by any one and the same person exceeds \$2,000, the aggregate of the fees payable for such licences or renewals of licences or transfers of licences shall be \$2,000.

Division II—Other Provisions

31. Occupiers to prevent water pollution. Subject to the provisions of this Act in relation to the granting and holding of licences and exemptions and the service of notices and the compliance with conditions thereof, the occupier of any premises shall keep or use such premises, conduct any trade, industry or process and operate any works and control equipment in or on such premises—

- (a) in such a manner as to avoid water pollution by the discharge of wastes therefrom;
- (b) so that any matter or thing, whether solid, liquid or gaseous, is not placed in or on such premises in such a manner that water pollution is caused or is likely to be caused by any part of such matter or thing falling or being carried or washed or blown into any waters or by the percolation of any part of such matter or thing into any waters.

32. Certain work not to be carried out on premises without prior notification to the Council. The occupier of any premises shall not, if by so doing he is likely to cause or increase water pollution from such premises—

- (a) alter the method of operation of any trade, industry or process carried on in or on such premises or of any works or control equipment installed in or on such premises for the purpose of prevention, abatement or mitigation of water pollution; or
- (b) install any works or control equipment in or on such premises for the purpose of the prevention, abatement or mitigation of water pollution or alter or replace any such works or control equipment installed therein or thereon for that purpose,

unless he shall have notified the Council in writing of his intention so to do not later than one month before the date of alteration, installation or replacement in question and unless he complies in all respects with the requirements notified to him by the Council in respect of such alteration, installation or replacement.

33. Design, installation and operation of water pollution abatement works. Works and control equipment on any premises for the prevention, abatement or mitigation of water pollution shall be designed, installed and operated so as to comply with the conditions of the licence or notice issued in respect of such premises pursuant to section 24 or section 25 of this Act, as the case may be, and the occupier of such premises shall, within the time fixed by the Council, make such additions to or modifications of such works and control equipment as may be necessary to secure such compliance.

34. Powers to prevent, abate or mitigate water pollution. (1) Without derogating from any other provision of this Act, the Minister may take action in the Supreme Court to restrain the occupier of any premises from *discharging wastes therefrom to any waters or from storing, treating or disposing of wastes on such premises or from disposing elsewhere of wastes transported from such premises*, where, in his opinion, the discharge, storage, treatment or disposal of such wastes is creating or is likely to create water pollution.

(2) The Minister may, where he considers that water pollution is being caused by wastes from a discontinued industry, trade or process on any land, take such action as he deems expedient to prevent, abate or mitigate such water pollution and any expense incurred by the Minister in so doing shall, until payment, be and remain a charge upon the land in question in priority to all mortgages, charges, liens and encumbrances whatsoever, other than a prior mortgage, charge, lien or encumbrance *in favour of the Crown, and notwithstanding any change that may take place in the ownership thereof.*

(3) (a) Before taking any action under subsection (2) of this section, the Minister shall give public notice of his intention so to do by an advertisement published in a newspaper circulating in the locality in question. Such advertisement shall state that objections to the taking of such action may be lodged with the Minister on or before the date specified therein which date shall not be less than one month after the date of the publication of the advertisement.

(b) Every objection shall be in writing, shall be addressed to the Minister, and shall state the grounds of objection and the facts and circumstances relied on by the objector in support of those grounds.

(4) The Minister shall consider every objection made pursuant to this section and lodged with him within the prescribed time.

(5) Subject as aforesaid, a decision of the Minister to take action under subsection (2) of this section shall be final and binding on all persons.

(6) Where the Minister takes action under subsection (2) of this section, a note or memorial of the charge shall be made or entered on the instrument of title to the land affected by the Registrar of Titles (appointed pursuant to *The Registrar of Titles Act of 1884*), the Registrar of Dealings (within the meaning of the *Land Act 1962-1971*) or other person required by any Act or law to make or enter any note or memorial on any instrument of title to land on receiving notice thereof, and subject to *The Real Property Acts 1861 to 1963*, the *Land Act 1962-1971* or any other such Act or law as aforesaid

For the purpose of such noting being made or such memorial being entered, the Minister shall notify in writing the Registrar of Titles, the Registrar of Dealings or other person as aforesaid of the existence of the charge and such notification shall be to him sufficient evidence of such charge.

35. Minister's emergency powers. (1) Notwithstanding any other provision of this Act, the Minister may, in circumstances that he considers constitute an emergency, by notice in writing served on any person and for a time specified in such notice—

- (a) authorize that person, subject to such conditions as may be specified in the notice, to discharge into any waters or to place in or on any premises such wastes as are specified in the notice;
- (b) prohibit that person from discharging into any waters or from placing in or on any premises, and whether or not that person is the holder of a licence or is otherwise authorized under this Act, such wastes as are specified in the notice either wholly or otherwise than in accordance with such conditions as are specified in the notice.

(2) A person who discharges wastes into any waters or places wastes in or on any premises in accordance with subsection (1) of this section shall not be guilty of an offence against this Act solely by reason of such discharge or placing of wastes.

(3) A person who discharges wastes into any waters or places wastes in or on any premises in contravention of subsection (1) of this section is, notwithstanding any other provision of this Act, guilty of an offence against this Act.

(4) The Minister may, in circumstances that he considers constitute an emergency, take such action as he deems necessary for the prevention, abatement or mitigation of water pollution and may contract with a

Local Authority or other body or with any person for the removal, dispersion, destruction or mitigation of such water pollution, and all costs and expenses incurred by the Minister in acting pursuant to this subsection shall be recoverable by action as for a debt from the occupier of any premises responsible for such water pollution, in any court of competent jurisdiction.

(5) It shall not be necessary for the Minister before serving any notice under subsection (1) of this section or taking any action under subsection (4) of this section to give the occupier of the premises in question an opportunity to show cause why such notice should not be served or such action should not be taken, as the case may be.

36. Requirements for waste removal by a Local Authority. (1) When a Local Authority undertakes or contracts for, or has undertaken or contracted for, or proposes to undertake or contract for, the transportation, storage, treatment or disposal of wastes, other than by sewerage in circumstances where such transportation, storage, treatment or disposal may cause water pollution, it shall notify the Council accordingly and supply such details as the Council may deem necessary. The secretary shall refer such notification to the Council together with a report and recommendation by the Director regarding any requirements for water pollution control.

(2) With respect to matters specified in the notification referred to in subsection (1) of this section, the Council may impose such conditions as it deems necessary for water pollution control, and such conditions shall apply in addition to, and not in derogation of or in substitution for, any conditions which the Director-General of Health and Medical Services may impose under the *Health Act 1937-1971* and shall be observed by the Local Authority accordingly.

(3) Nothing in this section contained shall absolve a Local Authority from the requirement to apply for a licence under this Act in respect of the discharge of wastes to any waters.

37. Requirements as to town planning, land use, etc. (1) In the preparation of a town planning scheme or in amending an existing town planning scheme or in making a by-law or ordinance to regulate and control the use of land and the erection or use of buildings or other structures on land pending the coming into force of a town planning scheme, a Local Authority shall have regard to the provisions of this Act and may refer to the Council any matters relating to water pollution upon which it may desire advice.

(2) A Local Authority in considering an application for the rezoning of any land or for the use of any land, building or other structure under a town planning scheme shall have regard to the provisions of this Act.

(3) In considering an application for approval of a subdivision of land, the Local Authority shall take into consideration the means of disposal of wastes likely to be discharged in pursuance of the use and development of such land, and shall make such provision as is necessary to avoid water pollution therefrom.

PART V—GENERAL PROVISIONS

38. **Occupier of premises required to furnish information.** The Council may, by notice in writing served on the occupier of any premises from which wastes are being or are suspected of being or are likely to be discharged to any waters or transported elsewhere for disposal in such a manner as to cause or be likely to cause water pollution, require such occupier to furnish to it within fourteen days or such longer period as may be specified in the notice, such information as to any plant in or on such premises, and as to any trade, industry or process carried out in or on such premises as it requires by the notice.

39. **Refusal to furnish information, etc.** Any person who, when required by the Council or by an inspector under or pursuant to this Act to answer any question, furnish any information or sign any declaration—

- (a) fails to answer such question, furnish such information or sign such declaration; or
- (b) gives any answer, furnishes any information or signs any declaration that is false or misleading in any material respect,

is guilty of an offence against this Act, and is liable to a penalty not exceeding \$400:

Provided that any statement made pursuant to any requirement as aforesaid shall not, if the person making the statement objected, at the time of such making, to doing so on the ground that it might tend to incriminate him, be admissible in evidence in any prosecution against such person for any offence not being the offence of contravening or failing to comply with the provisions of this section.

40. **Clean Waters Trust Fund.** (1) There shall be established and kept in the Treasury a fund to be called the Clean Waters Trust Fund (hereinafter in this section referred to as the "Fund").

(2) There shall be paid into the Fund—

- (a) all fees paid under this Act in respect of licences and renewals and transfers of licences;
- (b) all moneys appropriated by Parliament for the purposes of this Act;
- (c) all moneys received from other sources for the purposes of this Act.

(3) The Fund shall be administered by the Minister and may be applied—

- (a) to the payment of expenses necessarily incurred—
 - (i) in the administration of this Act;
 - (ii) in the supply of technical services (including inspection, advice and assistance) relating to the prevention, abatement or mitigation of water pollution and the preservation, restoration and enhancement of the quality of waters;
 - (iii) in investigation into the presence and incidence of water pollution and into the causes of such pollution and the measures which might be adopted to prevent, abate or mitigate such pollution;

- (iv) in investigation into the likelihood of water pollution and the measures which might be adopted to prevent, abate or mitigate such pollution;
- (v) in investigation and research, either generally or in any particular case, into the methods of prevention, abatement or mitigation of water pollution and the preservation, restoration and enhancement of the quality of waters (including the purchase of plant and equipment in connexion with any such investigation or research);
- (vi) in investigation to ascertain whether the provisions of this Act or any requirement, notice or order made or served hereunder or pursuant hereto, or the conditions attached to any licence or notice or exemption are being or have been complied with;
- (vii) in the training of and improving the knowledge of inspectors and other officers engaged in the administration of this Act;
- (b) to any purposes for which funds have been specifically provided;
- (c) to any other purpose authorized or directed by the Governor in Council.

41. Appeals. (1) (a) Any person (other than a statutory body or a Government Department of this State)—

- (i) being the applicant for a licence or for the renewal or transfer of a licence, or a licensee, and who is aggrieved by any decision of the Council or a delegate of the Council with respect to his application or licence;
- (ii) being a person to whom a notice under section 25 of this Act has been given and who is aggrieved by the notice;
- (iii) being an applicant for review pursuant to subsection (4) of section 24 of this Act who is aggrieved by the decision of the Council or a delegate of the Council on the application for review,

may appeal to a Judge of the District Court exercising jurisdiction in the district in which the premises, the subject of appeal, are situated.

(b) An appeal under this section shall not lie unless it is instituted within thirty days after the service upon the person concerned of the decision or notice, as the case may be, the subject of appeal.

(2) An appeal under this section shall be by way of rehearing and, subject to this Act, the decision of the Judge shall be final and shall be given effect to by the Council and by all persons whomsoever.

(3) An appeal under this section shall be instituted by filing in the District Court Registry concerned a notice of appeal.

The power to make rules of court of the District Court shall include power to make rules of court providing and regulating practice and procedure in respect of appeals to a Judge of that Court under this section.

Until such rules of court are made, or so far as such rules of court do not extend, the Judge hearing any appeal under this section may, in the particular case, give such directions as he may deem fit, and the directions shall, according to their tenor, have the force and effect of rules of court made under this section for the purposes hereof.

(4) (a) The Judge may make such order as to costs to be paid by either party to the appeal as he thinks just.

(b) Any such order made as to costs may be enforced in the same manner as a judgment of the District Court.

(5) If any dispute or difference arises between the Council or a delegate of the Council and any statutory body or Government Department of this State in relation to any matter arising under this Act, either party to the dispute or difference may refer the matter to the Minister.

The Minister shall make such investigation into the matter as he shall see fit and shall report thereon to the Governor in Council and the Governor in Council shall determine the matter.

The determination of the Governor in Council shall be final and shall be carried into effect by the Council and by the statutory body or Government Department, as the case may require.

42. General powers of inspectors, etc. (1) Any inspector, in addition to such other powers and duties as from time to time devolve upon him under this Act or as may be prescribed may, together with any person he may think competent to assist him in making any inspection or examination, enter any premises, and may therein or thereon—

- (a) examine and inspect any materials, equipment and industrial plant, and any manufacturing processes and any control equipment or works installed therein or thereon for the prevention, abatement or mitigation of water pollution;
- (b) make such examination, inquiry and tests, inspect such records, take such photographs, take and remove such samples, ask such questions, and request such information as he considers necessary or desirable,

for the purpose of assessing and recommending to the Council appropriate conditions in respect of a licence or notice, or to ascertain whether the provisions of this Act or any requirement or order made under or pursuant to it or the conditions attached to any licence or exemption granted or notice served under it are being or have been complied with.

(2) Before an inspector enters any private dwelling-house pursuant to a power conferred by this section he shall, save where he has the permission of the occupier or person in charge of that dwelling-house to his entry, obtain from a justice a warrant to enter.

A justice who is satisfied upon the complaint of an inspector that there is reason to suspect that, in relation to any premises, any provision of this Act or any requirement or order made pursuant to it or the conditions attached to any licence or exemption granted or notice served under it are not or have not been complied with, or that it is likely the same will not be complied with may issue his warrant directed to the inspector to enter the premises specified in the warrant for the purpose of exercising therein the powers conferred on the inspector by this Act.

A warrant issued under this section shall be, for a period of one month from its issue, sufficient authority—

- (a) to the inspector to whom it is directed and to all persons acting in aid of him to enter the premises specified in the warrant; and

- (h) to the inspector to whom it is directed to exercise in respect of the premises specified in the warrant all the powers conferred on an inspector by this Act.

For the purposes of this subsection the expression "private dwelling-house" does not include parts of premises which parts are not used exclusively for the purpose of private residence, or the curtilage of any premises.

43. Occupiers to allow entry and inspection. Subject to subsection (2) of section 42 of this Act, the occupier of any premises and a person in charge or apparently in charge of any premises shall, for the purpose of enabling an inspector to exercise his powers and discharge his duties under this Act—

- (a) provide the inspector at all reasonable times and as often as the inspector considers necessary with access to such premises and to any materials, equipment, industrial plant, and any manufacturing process and any works or control equipment installed therein or thereon;
- (b) provide the inspector with assistance and facilities (including the means of making examinations, inspections and tests and the taking of samples); and
- (c) furnish to the inspector all such information (including plans and operating instructions of works or control equipment installed in or on the premises) which he is capable of furnishing or as required by the inspector.

44. Obstructing an inspector. Any person who—

- (a) delays or obstructs an inspector in the exercise of any of his powers under this Act; or
- (b) fails to facilitate by all reasonable means the entry and inspection of any premises by an inspector, the examination and inspection of any materials, equipment or industrial plant or manufacturing processes or control equipment or works installed therein or thereon for the prevention, abatement or mitigation of water pollution, the making of any tests or the inspection of any records, the taking and removal of any samples or the taking of any photographs which an inspector is empowered under this Act to make, take or remove,

is guilty of an offence against this Act, and is liable to a penalty not exceeding \$400

45. Service of notices. (1) Any notice or order or other document whatsoever under the provisions of this Act may be given or delivered to or served upon any person—

- (a) by delivering the same to that person personally; or
- (b) by leaving the same at the usual place of business or address of such person or at his last-known place of business or address or, in the case of a holder of a licence under this Act, at the place of business or address, if any, stated in the licence; or

- (c) by forwarding the same by prepaid post letter addressed to such person at his usual place of business or address, or at his last-known place of business or address, or in the case of the holder of a licence under this Act, at the place of business or address, if any, stated in the licence.

(2) In any prosecution for an offence against this Act, a certificate under the hand of the secretary that a writing annexed to the certificate is a true copy of a notice or order or document forwarded by prepaid post letter by the secretary to the defendant on the date stated in the certificate shall, upon its production in evidence, and until the contrary is proved, be sufficient evidence of the matters certified to therein and that the original notice or order or document of which the writing purports to be a copy was received by the defendant at the time at which it would be delivered in the ordinary course of post if it had been posted on the date stated in the certificate, and that the signature on the certificate is the signature of the person by whom it purports to have been signed.

(3) In any proceeding under or for a purpose of this Act, the production in evidence of a copy of the Gazette purporting to contain a notification or an order by the Governor in Council shall be conclusive evidence of the making or giving by the Governor in Council of that notification or order, as the case may be, and of the contents of such notification or order.

46. Unjustified disclosure of information. Any person who discloses any information relating to any manufacturing process or trade secret used in carrying on or operating any particular undertaking or equipment or plant, which information has been furnished to him or obtained by him under this Act or in connexion with the execution hereof, is, unless the disclosure is made—

- (a) with the consent of the person carrying on or operating such undertaking, equipment or plant;
- (b) in connexion with the execution of this Act;
- (c) with the prior permission of the Minister; or
- (d) subject to the provisions of section 39 of this Act, for the purposes of any legal proceedings arising out of this Act or of any report of such proceedings,

guilty of an offence against this Act, and liable to a penalty not exceeding \$400.

47. Offences and procedure. (1) Any person who contravenes or fails to comply with any provision of this Act is guilty of an offence against this Act.

(2) All offences against this Act may be prosecuted and all fees due and payable under this Act may be recovered in a summary way under *The Justices Acts 1886 to 1968* upon the complaint of any person thereunto authorized in writing by the Minister.

(3) A prosecution for an offence against this Act may be instituted at any time within twelve months after the commission of the offence or within six months after the commission of the offence comes to the knowledge of the complainant, whichever is the later period.

(4) The operation of section 23 of *The Criminal Code* is excluded in respect of—

- (a) any offence under subsection (1) of section 23 of this Act; and
- (b) any offence under subsection (1) of this section in respect of any contravention of or failure to comply with any provision of subsection (1) of section 27 or of section 31 of this Act.

Where in relation to any premises the occupier thereof is charged with an offence under subsection (1) of section 23 of this Act or under subsection (1) of this section in respect of any contravention of or failure to comply with any provision of subsection (1) of section 27 or of section 31 of this Act, it is immaterial that the act or omission which constituted the offence occurred without his authority or contrary to his instructions.

This subsection applies subject to subsection (5) of this section.

(5) It is a defence if the occupier of any premises charged with an offence under subsection (1) of section 23 of this Act or under subsection (1) of this section in respect of any contravention of or failure to comply with any provision of subsection (1) of section 27 or of section 31 of this Act proves that the wastes escaped in consequence of unavoidable leakage and that all reasonable precautions were taken after the discovery of the leakage for the purpose of preventing or reducing the escape of the wastes.

48. Special penalties in certain cases. Any person who—

- (a) is guilty of an offence under subsection (1) of section 23 of this Act or under section 35 of this Act or under subsection (1) of section 47 of this Act in respect of any contravention of or failure to comply with any provision of subsection (1) of section 27 or of section 31 of this Act;
- (b) without limiting the generality of the foregoing, is guilty of an offence against this Act by contravening or failing to comply with water quality standards prescribed in respect of the discharge of wastes from any premises to any waters or the transport elsewhere of wastes from any premises for disposal in such a manner as to cause or be likely to cause water pollution, or failing to achieve such standards in the time within which they are to be achieved pursuant to any licence granted or notice served under this Act,

is liable to a penalty as follows:—

Penalty for a first such offence: \$10,000 and, if the offence is a continuing one, a further penalty of \$1,000 for each and every day during which the offence continues.

Penalty for a second or subsequent such offence: \$20,000 and, if the offence is a continuing one following conviction for a second or subsequent such offence, a further penalty of \$2,000 for each and every day during which the offence continues, or imprisonment for twelve months or both such penalty and imprisonment.

49. General penalty. Any person guilty of an offence against this Act, if no specific penalty is provided for that offence, is liable to a penalty not exceeding \$400 and, if the offence is a continuing one, to a further penalty not exceeding \$40 for each and every day during which the offence continues.

50. Liability for offences by corporation. (1) Where a body corporate offends against this Act each and every one of the following persons shall be deemed to have committed the offence, and shall be liable to be proceeded against and punished accordingly, namely—

- (a) the managing director, manager or other governing officer, by whatever name called, and every member of the governing body, by whatever name called, thereof; and
- (b) every person who in Queensland manages or acts or takes part in the management, administration or government of the business in Queensland of the body corporate:

Provided that any such person proceeded against pursuant to this section shall not be convicted if he satisfies the court that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

(2) This section applies so as not to limit or affect howsoever the liability of a body corporate to be proceeded against and punished for an offence against this Act committed by it.

51. Return of licence. Where a licence under this Act expires or is cancelled or suspended, the person to whom it was granted shall, within fourteen days after such expiry or within fourteen days after the giving of notice of such cancellation or suspension, deliver it up to the secretary.

Any person who fails to comply with the provisions of this section is guilty of an offence against this Act, and is liable to a penalty not exceeding \$100.

52. Facilitation of proof. (1) In a proceeding under or for a purpose of this Act—

- (a) it shall not be necessary to prove the appointment of any inspector;
- (b) a signature purporting to be that of any inspector shall be taken to be the signature it purports to be until the contrary is proved;
- (c) it shall not be necessary to prove the authority of a person authorized by the Minister to take any proceedings or of any inspector to do any act, but this shall not prejudice the right of any defendant to prove the extent of such authority;
- (d) a document certified under the hand of the secretary and purporting to be a duplicate or a copy of a licence or notice, or order or of an exemption granted or given or made under this Act shall, upon its production in evidence and until the contrary is proved, be sufficient evidence of that licence, notice, order or exemption, as the case may be;
- (e) evidence of the contents of any register kept under this Act may be given by a certificate under the hand of the secretary, and every such certificate shall, upon its production in evidence, and until the contrary is proved, be sufficient evidence of the matters stated therein;
- (f) a certificate under the hand of the secretary that on any date or during any period mentioned in the certificate—
 - (i) any person was or was not the holder of a licence or a person served with a notice under this Act;

- (ii) any person was or was not exempted from any of the provisions of this Act;
- (iii) any conditions specified in the certificate were attached to any licence or exemption granted under this Act, or to any notice served under this Act, shall, upon its production in evidence, and until the contrary is proved, be sufficient evidence of the matters stated therein;
- (g) the averment in any complaint of the date on which the commission of any offence against this Act came to the knowledge of the complainant shall, until the contrary is proved, be sufficient evidence of such matter.

(2) For the purposes of this Act the signatures of the chairman, the Director and the secretary shall be judicially noticed.

53. Regulations. (1) The Governor in Council may make regulations, not inconsistent with this Act, for or with respect to—

- (a) applications for and the granting of and the matters to be taken into consideration in respect of any application for a licence or the renewal or any transfer of a licence or a review of a licence or notice, the subscribing of declarations as to the truth of any statements in such applications, the conditions subject to which in pursuance of this Act licences may be granted, all or any matters and things relating to the renewal, cancellation, suspension, review and endorsement of licences, the notification of change in any of the particulars to be inserted in applications or in licences, and the issue of duplicates for any licences which may be lost or destroyed or whereon the particulars have become illegible;
- (b) the keeping of registers under this Act;
- (c) prescribing forms under this Act, and the respective purposes for which such forms or forms to the like effect shall be used;
- (d) prescribing fees and charges payable under this Act on such basis or bases as the Governor in Council thinks appropriate and the matters in respect of which such fees shall be paid, and prescribing the persons by whom and the places and times where and when such fees shall be paid so that fees of different amounts and different bases for the calculation of fees may be prescribed both in relation to different matters and, by reference to different persons, localities or circumstances, the same matters;
- (e) the types of tests to be carried out and the records to be maintained by occupiers of premises;
- (f) the types of control equipment that may be used in or on any premises, and the manner in which such equipment shall be operated and maintained;
- (g) the provision to be made by occupiers of premises and places for assistance, access and facilities and the means of making examinations, inspections and tests to enable inspectors to exercise their powers under this Act;
- (h) the method of taking samples and making tests for the purposes of ascertaining whether any of the provisions of this Act or any conditions attached to a licence, an exemption or a notice are being or have been complied with; and providing that any such test shall only be made in accordance with the prescribed method;

- (i) all matters and things necessary or convenient to be prescribed with respect to the Clean Waters Trust Fund;
 - (j) prescribing returns of any information, statistics and data relating to water quality and water pollution to be furnished and the contents thereof, and persons or classes of persons who shall furnish such returns, and the times and places of the furnishing thereof;
 - (k) prescribing, providing for, regulating and controlling the powers, authorities, functions and duties of inspectors and other officers;
 - (l) prescribing the amount of any penalty for any offence against any regulation, provided that any such penalty shall not exceed \$400 and, if the offence is a continuing one, a further sum of \$40 for each and every day during which the offence continues;
 - (m) prescribing water quality objectives, water quality plans, water quality criteria and water quality standards;
 - (n) prescribing qualifications which shall be possessed by persons operating works or control equipment for the prevention, abatement or mitigation of water pollution;
 - (o) prescribing conditions for the reuse of treated wastes;
 - (p) the prevention, abatement and mitigation of water pollution caused by the accidental discharge of wastes to waters, and methods of removal, dispersal and rendering harmless of such discharges;
 - (q) the transport, storage, treatment and disposal of wastes to prevent water pollution being caused thereby;
 - (r) all matters required or permitted by this Act to be prescribed where the method of prescription is not otherwise provided;
 - (s) all matters that may be convenient for the administration of this Act or that may be necessary or expedient to achieve the objects and purposes of this Act.
- (2) Regulations may be made under this Act at any time after the passing hereof.
- (3) The power to regulate conferred by the provisions of subsection (1) of this section includes the power to prohibit.
- (4) A regulation may be made to apply to or have operation throughout the whole or any part of the State, may be of general or specially limited application according to time, place or circumstance, and may be general or restricted to any specified class or subject-matter.
- (5) A regulation may vary according to different premises, trades, industries, processes, equipment, or industrial plants, or different classes of premises, trades, industries, processes, equipment or industrial plants or different classes of receiving waters.

54. Publication of Proclamations, Orders in Council and regulations.

- (1) Every Proclamation, Order in Council and regulation made under this Act shall—
- (a) be published in the Gazette;
 - (b) upon its publication in the Gazette, be judicially noticed and such publication shall be conclusive evidence of the matters contained therein;

- (c) take effect on and from the date of such publication unless, in the case of any regulation, a later date is specified in that or any other regulation for its commencement when in such event it shall take effect on and from that later date; and
- (d) be laid before the Legislative Assembly within fourteen sitting days after such publication if the Legislative Assembly is in session, but, if not, then within fourteen sitting days after the commencement of the next session.

(2) If the Legislative Assembly passes a resolution of which notice has been given at any time within fourteen sitting days after any such Proclamation, Order in Council or regulation has been laid before it disallowing the same or part thereof, that Proclamation, Order in Council, regulation or part shall thereupon cease to have effect, but without prejudice to the validity of anything done in the meantime or to the making of a further Proclamation, Order in Council or regulation.

55. *Inaccurate descriptions, etc.* No misnomer, inaccurate description or omission in or from any Proclamation, Order in Council, regulation, licence, notice, approval, order or other act of authority under this Act shall in any wise prevent or abridge the operation of this Act with respect to the subject-matter of that Proclamation, Order in Council, regulation, licence, notice, approval, order or other act of authority, provided the same is designated so as to be understood.