



Metropolitan Water Supply and Sewerage Act 1909

Reprinted as in force on 1 July 2010

Reprint No. 2C

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- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
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The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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Queensland

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[as amended by all amendments that commenced on or before 1 July 2010]

An Act to make better provision for the water supply and sewerage of the City of Brisbane and its suburbs

Part 1 Preliminary

1 Short title

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

4 Interpretation

In this Act—

audit office means the Queensland Audit Office established under the *Auditor-General Act 2009*.

authorised means—

- (a) when used with respect to fittings and drainage apparatus— authorised by this Act or by the board;

1 The *City of Brisbane Act 1924*, section 51 provided—

‘On and after a date to be fixed in that behalf by the Governor in Council, by order in council, the Metropolitan Water Supply and Sewerage Board, constituted under the Metropolitan Water Supply and Sewerage Act, shall be dissolved.’.

See endnote 8 to this reprint for the full text of the section.

The date fixed by order in council was 2 April 1928 (see o in c pubd gaz 28 March 1928 p 1157). The order in council also modified the effect of various provisions of the Act, especially sections 4, 5 and 6.

See endnote 8 to this reprint for the full text of the order in council.

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- (b) when used with respect to officers—an officer of the board authorised by the board or the president either generally or for any particular purpose.

board means the Metropolitan Water Supply and Sewerage Board constituted by this Act.

cattle means horses, cattle, sheep, and pigs, and such other quadrupeds as the Governor in Council from time to time, by order in council, declares to be cattle for the purposes of this Act.

daily penalty means a penalty for each day on which an offence is continued or repeated—

- (a) after notice has been given to the offender of the commission of the offence; or
- (b) after a conviction or order by any court.

dissolved board means the Brisbane Board of Waterworks dissolved by this Act.

district means the Metropolitan Water Supply and Sewerage District constituted by this Act.

domestic purposes includes all the purposes for which water is ordinarily used in or in connection with a dwelling house or the land attached thereto, or in watering gardens appurtenant to dwelling houses and not used for the purposes of business, or in cleansing private vehicles, or in a ship, but does not include the washing of decks or boats, or the use of water for livery or carriers' stables, or for any manufacturing purpose, or for irrigation, or for water power, or for any fountain, or for any ornamental purpose.

drain means—

- (a) any drain from and used for the drainage of 1 building only or of land within the same curtilage; or
- (b) any combined drain used with the sanction of the board for the drainage of 2 or more buildings belonging to one owner or to different owners; or
- (c) any drain for draining any group or block of premises by a combined operation under an order of the board.

drainage apparatus means any sink, trap, pipe, access hole, ventilator, branch drain, connection, septic tank, or other fitting apparatus or appliance for or in connection with any sewer, drain, or sanitary convenience.

Elections Act means the *Elections Act of 1915* and any Act in substitution for that Act.

elector means a person named as such in any electoral roll of an electoral district or electoral division comprised within the Metropolitan Water Supply and Sewerage District and enrolled on a voters' roll compiled under this Act.

electoral district means an electoral district constituted for the time being under the Elections Act.

fitting means a pipe, valve, meter, or other fitting apparatus or appliance for or in connection with water supply.

land means all messuages, structures, wharves, piers, jetties, premises, lands, tenements, and hereditaments of every tenure, also streams, reservoirs, and water of every description, also easements of every description, and, when necessary, includes any part of a structure, curtilage, or premises separately occupied.

Local Government Act means the *Local Government Act 2009*.

newspaper means a newspaper generally circulating within the district.

occupier means the person in actual occupation of land, or, if there is no person in actual occupation, the person entitled to possession of the land.

open to inspection, used in reference to books, documents, and writings belonging to or relating to the business of the board means open to inspection or for the making of any copy or extract at the office of the board at all reasonable times during office hours by any person authorised by the Minister or by any elector or creditor, of the board or any person acting on behalf of a elector or creditor, without payment of any fee.

owner means the person for the time being entitled to receive the rents and profits of the land in connection with which the word is used, whether on the person's own account or as the

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agent of or trustee for any other person, or who would be entitled to receive the same if the land were let at a rent, and includes the registered proprietor under the Acts relating to real property and any person seised of the legal estate in land.

pipe means a main, main-pipe, pipe, stopcock, water-cock, siphon, hydrant, branch, or other similar apparatus.

person includes a firm and an association of persons, and a body corporate and a local government.

president means the President of the Board, and, when necessary, includes the deputy president.

qualified person, for appointment as an auditor under section 108(1) or a special auditor under section 114(1), means—

- (a) a member of CPA Australia who is entitled to use the letters ‘CPA’ or ‘FCPA’; or
- (b) a member of The Institute of Chartered Accountants in Australia who is entitled to use the letters ‘CA’ or ‘FCA’; or
- (c) a member of the National Institute of Accountants who is entitled to use the letters ‘MNIA’, ‘FNIA’, ‘PNA’ or ‘FPNA’; or
- (d) an officer of the audit office.

ratepayer means a person named in the books of the board as a person liable to pay rates.

reservoir means a reservoir, bore, dam, tank, cistern, or well.

road means any highway, bridge, road, street, public place, lane, footway, square, court, alley, or passage, whether a thoroughfare or not, and any public wharf or jetty, and, when necessary, includes the roadway or pavement of a road.

sanitary convenience includes a water closet, urinal, bath, slop sink, and any convenience for the like purpose.

secretary means the secretary of the board, and, when necessary, includes the officer of the board for the time being authorised to discharge the duties of the secretary.

sewer means any sewer or underground channel vested in and under the control and management of the board which is not a drain as herein defined; also any drain, branch, or portion of a

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drain laid between a sewer and the boundary line of any allotment or curtilage, or for any part of the distance between a sewer and the boundary line of any allotment or curtilage, but does not include—

- (a) any natural watercourse or natural stream into which sewage is received or discharged, or in which sewage flows; or
- (b) any open water-channel or watertable in or upon any road; or
- (c) any open or underground channel vested in any local government and used for carrying off storm water.

sewerage works means any sewer, drain, structure, engine, pump, machinery, drainage apparatus, or other work for or in connection with sewerage and drainage constructed or erected whether before or after the commencement of this Act with the appurtenances.

stream means a river, creek, brook, spring, aqueduct, waterway, conduit, tunnel, sluice, ditch or other running water.

structure means any building, wall, fence, or other structure, or anything affixed to or projecting from any building, wall, fence, or other structure.

watercourse means the bed of a river, creek, or other channel in which water flows either ordinarily, intermittently, or occasionally.

waterworks means any reservoir, stream, structure, culvert, weir, engine, machinery, pipe, fittings, or other work for or in connection with water supply constructed or erected whether before or after the commencement of this Act with the appurtenances, and includes all works and all matters and things connected therewith or appurtenant thereto in course of construction, erection, or completion at the commencement of this Act.

works means waterworks and sewerage works, and all other works which the board under this Act is authorised to undertake, construct, or maintain, and all matters and things connected with any works or appurtenant thereto, and

includes any tramway, quarry, gravel pit, or coal mine vested in or under the control of the board.

5 Repeal—sch 1

- (1) Subject to this Act, the Acts specified in schedule 1 are repealed.²

Proceedings

- (2) All proceedings and things lawfully had or done by the dissolved board under or in pursuance of any of the said Acts, or any Act thereby repealed, shall be and continue to be of the same force and effect as if no such repeal had taken place.

Validation of by-laws

- (3) All by-laws heretofore made and still remaining unrepealed by the dissolved board, and which would have been valid if made under the powers conferred by the said Acts, shall be and be deemed to have been valid, and shall, so far as power is conferred by this Act to make by-laws for the same or similar objects, remain in force until they are repealed or amended by other by-laws or otherwise under this Act.

Penalties

- (4) All penalties and forfeitures imposed under any of the said Acts, and incurred at the commencement of this Act, shall and may be enforced by the board under this Act.

Rights of Treasurer

- (5) All rights, powers, and authorities which, at the commencement of this Act, have accrued to the Treasurer under any of the said Acts may be exercised and enforced against the board under this Act.

² This section was modified by order in council pubd gaz 28 March 1928 p 1157.
See endnote 8 to this reprint for the text of the order in council.

Part 2 Administration

Division 1 The board and its district

6 The Metropolitan Water and Sewerage Board

- (1) For the effective administration of this Act there shall be a board to be called the Metropolitan Water Supply and Sewerage Board.³

Corporation

- (2) The Metropolitan Water Supply and Sewerage Board shall by that name be a body corporate with perpetual succession and a common seal, and shall be capable in law of suing and being sued, and of taking, purchasing, holding, and alienating land, and of doing and suffering all such other acts and things as bodies corporate may by law do and suffer.

7 District

- (1) For the purposes of this Act the area which for the time being comprises the City of Brisbane shall constitute the district called the Metropolitan Water Supply and Sewerage District, and the provisions of this Act shall, except where the contrary intention appears, apply with respect to that district.
- (2) In this section—

City of Brisbane means Brisbane under the *City of Brisbane Act 2010*.

Division 2 Constitution of the board

[Not reprinted—see footnote 1 at section 1 of this Act]

³ This section was modified by order in council pubd gaz 28 March 1928 p 1157. See endnote 8 to this reprint for the text of the order in council.

Division 3 General powers and proceedings

13 First meeting

[Not reprinted—see footnote 1 at section 1 of this Act]

14 Provisions relating to proceedings and business—sch 3

[Not reprinted—see footnote 1 at section 1 of this Act]

15 Governor in Council may intervene

- (1) The Governor in Council may at any time, by order in council, suspend, amend, or rescind any resolution of the board, or may prohibit the expenditure of any moneys from the water and sewerage fund upon any work which the Governor in Council deems unnecessary, or which will in the Governor in Council's opinion impose undue burdens upon the ratepayers of the district or any part thereof.

Extravagant allowances etc.

- (2) If, whether in pursuance of any resolution of the board, or otherwise, any payment of money has been made to any member out of any moneys under the control of the board which the Governor in Council considers unnecessary, extravagant, or illegal, the Minister shall order such member to repay such money to the board forthwith or within such time as the Minister allows.
- (3) If such member does not repay such money in pursuance of such order, the order may be made an order of the Supreme Court by filing a copy thereof in the office of the registrar of such court, and may be enforced accordingly.

16 Appointment of officers

- (1) The board from time to time shall appoint a secretary, and may appoint such engineers, surveyors, inspectors, collectors, clerks, rangers, turncocks, and other officers and servants as may be necessary for the purposes of this Act and for the due administration thereof.

- (1A) It may out of the water and sewerage fund pay to its officers such salaries and allowances as it may determine.

Bailiffs

- (2) The board may from time to time appoint a bailiff or bailiffs for the purpose of levying rates and other moneys due to the board by distress and sale.
- (2A) A bailiff so appointed shall have power and authority to sell by public auction any goods and chattels seized under warrant of distress without taking out a licence as an auctioneer.
- (3) Except in the case of any officer or servant who is appointed by the board under a special agreement in writing containing the terms and conditions of service and employment, all officers and servants of the board appointed pursuant to this Act shall hold office during the pleasure of the board.
- (3A) The president may discontinue the employment of any officer or servant of the board whenever in the president's opinion the services of such officer or servant are no longer required in connection with any of the works or business of the board.
- (3B) However, the president shall report the matter at the next meeting of the board thereafter.
- (4) Notwithstanding anything hereinbefore contained, the president shall have the power from time to time to employ any officer or servant for any temporary purpose, and fix the officer's or servant's emolument, whenever in the president's opinion it is necessary so to do for the purpose of expediting the business of the board, and at any time to dispense with the services of any such temporary officer or servant.

Division 4 Dissolution of existing board**17 Dissolution of existing board and transfer of property etc.**

- (1) Upon the commencement of this Act the Brisbane Board of Waterworks shall be dissolved, and thereupon the following provisions shall be applicable—
- (2) All the waterworks and all lands vested in or under the control of the dissolved board, and all interests, rights, benefits, and

advantages appurtenant to, connected with, or related to all such waterworks and lands, and all other works, structures, plant, machinery, pipes, and all other appliances, fittings, and apparatus (other than service pipes laid within any private land at the cost of any owner or occupier of such land), and all personal property whatsoever of the dissolved board, shall, without any conveyance, assignment, or transfer, be vested in the board for the purposes of this Act.

- (2A) All such waterworks constructed or in course of construction shall continue and be completed and shall be maintained and managed by the board under and subject to this Act in all respects as if they had been constructed under the authority hereof.

Rights and liabilities etc.

- (3) All rights, liabilities, obligations, contracts, and engagements of the dissolved board then existing shall be, and continue to be, vested in, and shall attach to, and may be enforced by or against, the board under this Act.

Rates etc. due

- (4) All rates and other moneys which are then due or payable to or leviable by the dissolved board shall be and continue to be so due, payable, and leviable, and may be paid to, and received, levied, and recovered by the board under this Act.

Actions etc.

- (5) All actions and proceedings then pending by or against the dissolved board may be carried on and prosecuted by or against the board under this Act, and no such action or proceeding shall abate or be discontinued or prejudicially affected by anything in this Act contained.

Existing licences, registrations, and permits

- (6) All licences, registrations, and permits duly issued, made, or granted by the dissolved board, and then subsisting, shall continue in force for the period (if any) specified in such licences, registrations, or permits unless the same are sooner suspended, cancelled, or revoked under or in pursuance of this Act.

Division 5 Property

18 Works to be the property of board

The whole of the works, and all water which at any time is in any stream, watercourse, reservoir, pipe, or other part of the waterworks, and the whole contents of any sewer or drain under the control of the board, and all moneys received by the board under this Act shall vest in and be the property of the board, and shall be used and dealt with by it for the purposes of this Act.

19 Qualified exemption from rates

- (1) Save as herein provided, all land vested in or in the occupation of the board shall be deemed to be rateable land within the meaning of the Local Government Act.
- (2) However, such land, if occupied by any of the sewers, drains, or pipes of the board, or any fittings or drainage apparatus of the board, shall not be so deemed to be rateable land.
- (3) In addition, all storage and other reservoirs and all catchment areas respectively vested in or under the control of the board shall not be so deemed to be rateable land.

Division 6 By-laws

20 Power to make by-laws—sch 4

Subject to this Act, the board may from time to time make by-laws with respect to all or any of the matters mentioned in schedule 4.

21 Provisions as to by-laws

- (1) Unless by this Act it is otherwise expressly provided, no by-law shall contain any matter contrary to this Act or any law in force in Queensland.

- (2) A by-law may impose a penalty for any breach thereof, and may also impose different penalties in case of successive breaches.
 - (2A) But no such penalty shall exceed \$100.
 - (2B) A by-law may also impose a daily penalty for any breach thereof.
 - (2C) But no such penalty shall exceed \$10 per day.
 - (2D) A by-law may provide that in addition to a penalty any expense incurred by the board in consequence of a breach of such by-law, or in the execution of work directed by the by-law to be executed by any person and not executed by the person, shall be paid by the person committing such breach or failing to execute such work.
- (3) A by-law may require any work or thing to be executed or done of such materials, within such time, or in such manner, as may be directed or approved in any particular case by the board or the president, or any authorised officer or other person, and may require works to be executed only by qualified and licensed persons.
- (4) A by-law may authorise the board or the president, or any authorised officer, to pull down, remove, or alter any work, structure, material, or thing erected or being in breach of any by-law, and to recover all expenses incurred in so doing.
- (4A) The exercise of this authority shall not relieve any person from liability to any penalty incurred by reason of such breach.
- (5) A by-law may leave any matter or thing to be from time to time determined, applied, dispensed with, prohibited, or regulated by the board by resolution or by the president or by any authorised officer either generally or for any classes of cases, or in any particular case.
- (6) A by-law may provide for the issue or making of licences, registrations, or permits to or with respect to persons and property, and for the payment of reasonable licence, registration, and permit fees.

- (7) A by-law may provide for the payment of reasonable fees for inspections and other services by officers of the board.
- (8) A by-law may apply to a specified part only of the district.

22 Passing of by-laws

- (1) Every by-law shall be passed at a special meeting of the board called for that purpose, and shall be confirmed at a subsequent special meeting of the board, and shall be sealed with the seal of the board.

Publication of notices of proposed by-law

- (2) After a resolution for passing a by-law has been agreed to by the board, and not less than 14 days before the resolution is confirmed, a copy of such by-law shall be deposited at the office of the board, and shall be there open to inspection; and a notice shall be published in some newspaper setting forth the general purport of the proposed by-law, and stating that a copy is open to inspection.

To be approved by Governor in Council

- (3) After a by-law has been sealed it shall be submitted for the approval of the Governor in Council, and if approved by the Governor in Council shall be published in the gazette, and thereupon such by-law shall have the force of law.

23 Repeal of by-laws

A by-law or part of a by-law may be repealed by the Governor in Council by order in council.

24 Saving of past operation of amended or repealed by-law

Notwithstanding the amendment or repeal of any by-law, every offence committed against the by-law before the amendment or repeal thereof shall be adjudicated upon and punished; and every act or proceeding done or commenced, and every right, privilege, or protection acquired, and every liability incurred, shall continue to be prosecuted and be of the

same force and effect as if the by-law had not been amended or repealed.

25 Testing the validity of by-law

- (1) If any elector desires to dispute the validity of a by-law or part of a by-law, the elector may pay into the Supreme Court the sum of \$40 as security for the costs of the proceedings, and may thereupon apply to the said court or a judge thereof for an order calling upon the board to show cause why such by-law or part of a by-law should not be quashed for the invalidity thereof.
- (2) Upon the hearing of the matter, the court or judge may quash or amend the by-law, or confirm the validity thereof, as to the court or judge seems meet.
- (3) If the court or judge quashes or amends the by-law, the amount paid into court as security for costs shall be ordered to be repaid to the elector, with costs not to exceed \$40 or without costs, as the court or judge determines.
- (4) If the validity of the by-law is confirmed, the court or judge may make an order for the payment to the board of the amount paid into court as security for costs.

Part 3 Construction and maintenance of works

26 Board may construct works

Subject to this Act, the board shall have power, from time to time, to construct, acquire, provide, extend, renew, and improve, and to maintain, alter, and repair, waterworks and sewerage works, and to discontinue such of them as in its opinion are obsolete or useless.

27 Brisbane River supply

- (1) Subject to this Act, the board shall have power, from time to time—
 - (a) to obtain from the Brisbane River or any tributary thereof or the Logan River or any tributary thereof at the locality fixed by the plans heretofore duly approved, and to obtain from either such river or any tributary thereof or from any other river or stream or tributary thereof at the localities respectively shown on and fixed by plans to be submitted to and approved by the Governor in Council, as hereinafter provided, and also from its reservoirs, an adequate supply of water for its purposes, and whether in substitution for or in addition to any existing supply;

Weirs

- (b) to construct and thereafter maintain, repair, enlarge, alter, and renew any dam or weir across the Brisbane River or any tributary thereof or the Logan River or any tributary thereof, or any other river or stream or tributary thereof, at any locality shown on and fixed by any plan submitted to and approved by the Governor in Council as hereinafter provided;

Filtration and purification

- (c) to establish works and furnish appliances, in any suitable locality approved by the Governor in Council, for the filtration and purification of water.

No compensation

- (3) No compensation shall be payable in respect of any diminution of the quantity of water in the Brisbane River, or any part thereof, or any tributary thereof, or in any stream or watercourse, by reason of any works of the board.

No action

- (4) After such compensation as is payable under this Act has been paid to all persons interested, no action, indictment, information, or other proceedings shall be commenced, presented, prosecuted, or maintained against the board or any

officer thereof or other person for or in respect of any alleged obstruction of the navigation of, or deprivation of access to, or diminution of the quantity of water in the Brisbane River, or any part thereof, or any tributary thereof, by reason of the execution of any work authorised by this Act, or for or in respect of any damages, loss, or expenses occasioned or alleged to be occasioned or in anywise whatsoever arising therefrom, except damages, loss, or expenses occasioned or alleged to be occasioned by the flooding of lands by reason of the execution of any such work.

28 Preliminaries to construction

- (1) The board shall, before undertaking the construction of any works—

Surveys and levels

- (a) cause the necessary surveys and levels of lands and roads to be made and taken; and

Plans etc. to be deposited

- (b) cause to be prepared plans, sections, specifications, books of reference, and an estimate of the cost of the proposed works, together with a statement showing the net earnings, if they are intended to be immediately revenue-producing, estimated to be derived from them, and a statement showing the rateable value under the Local Government Act of the land to be benefited by them, and cause the same or certified copies thereof to be deposited at the office of the Minister, and also at the office of the board; and

Notice

- (c) cause an advertisement to be published in the gazette and in at least 2 newspapers specifying—
- (i) a description of the proposed works;
 - (ii) the localities at which they will be constructed;
 - (iii) the purposes for which they are to be constructed;

- (iv) the parts of the district which are intended to be supplied with water or drained or otherwise affected;
- (v) the times when and places at which the plans, sections, specifications, and books of reference may be inspected.

Inspection

- (2) The documents so deposited shall be open to inspection.

29 Minister may cause plans etc. to be examined

On the deposit of the documents aforesaid at the office of the Minister, the Minister may cause them to be examined and reported on by an engineer, who shall, if required by the Minister, visit the locality of the proposed works before reporting upon the same.

30 Objections

- (1) Any local government or person interested may object in writing to the construction of the whole or any part of the proposed works.
- (2) Every such objection shall be lodged with the Minister within 1 month from the date of the publication in the gazette of the advertisement hereinbefore prescribed, and shall be inquired into and reported on by the engineer aforesaid.

Governor in Council may authorise construction of works

- (3) If, after the expiration of 1 month from such publication the Minister is satisfied that—
 - (a) this Act has been complied with; and
 - (b) the revenue estimated to be derived from the proposed works (if they are intended to be immediately revenue-producing) is sufficient to justify the undertaking; and
 - (c) the works, if carried out in the manner designed, will be for the public benefit; and

- (d) the objections (if any) lodged are not sufficient to require the approval of the Governor in Council to be withheld;

the Minister shall submit the documents to the Governor in Council for approval.

- (4) If they are approved, the Governor in Council may forthwith, by order in council, empower the board to construct the works.
- (5) Such order shall be notified in the gazette and in at least 2 newspapers.

31 Interference with railway works

- (1) When any works may interfere with any rail corridor land, the board shall before commencing the same give notice of its intention to the railway manager for the land, together with a plan and section showing the nature of such interference.
- (2) Unless the railway manager within 1 month after the service of such notice delivers to the board a signed statement of any objections the manager has to the proposed works, the manager shall be taken to have approved thereof.
- (3) If any objections are made by the railway manager which the board considers unreasonable, the matter in difference shall be determined by the Governor in Council, whose decision shall be final and binding on the parties.
- (4) But such proposed works shall not be proceeded with until the parties have agreed or such decision has been given.
- (5) In this section—

rail corridor land has the meaning given by the *Transport Infrastructure Act 1994*.

railway manager, for rail corridor land, has the meaning given by the *Transport Infrastructure Act 1994*.

32 Plans of outlet to be submitted to marine board

- (1) In order to preserve the navigation of the Brisbane River, the plans of any sewerage works proposed to be constructed upon the bank, bed, or shore of the said river, or of the sea adjacent

to the mouth of the said river, shall be submitted to the marine board before such works are commenced.

- (2) Unless the marine board, within 1 month after the receipt of a copy of such plans, serves upon the board a notice specifying their objections to the proposed works as interfering with the navigation of the said river, the marine board shall be taken to have approved thereof.
- (3) If any objections are made by the marine board which the board considers unreasonable, the matter in difference shall be determined by the Governor in Council, whose decision shall be final and binding on the parties.
- (4) But such proposed works shall not be proceeded with until the parties have agreed or such decision has been given.

33 Board may go outside district

- (1) The board may exercise all or any of its powers outside the district for the purpose of the storage distribution, or supply of water or of the outfall or distribution or disposal of sewage.
- (2) However, 2 months at least before commencing the construction of any such work outside the district the board shall give notice of the proposed work by advertisement in at least 2 newspapers, and in such notice shall describe the nature of the proposed work, and shall state the names of the roads and lands (if any) through, across, under, over, or on which the work is to be constructed, and shall appoint a place where a plan of the intended work is open to inspection.

Objections

- (3) A copy of such notice shall be sent to the owners and occupiers of such lands so far as known and to the local government concerned.
- (4) If any such owner, occupier, or local government, or any person who would be affected by the work, gives to the board notice in writing of his or its objection to such work, the board shall not commence the work without the approval of the Governor in Council, who may direct an inquiry to be made into the matter of the said objection, and may employ such

person as the Governor in Council thinks fit to make such inquiry.

34 Powers of board

- (1) Subject to this Act, for the purposes of the construction, maintenance, management, and control of works, and the doing of anything which the board is by this Act authorised to do, the board, by its officers, servants, and agents, may, from time to time, exercise the following powers, and do all such auxiliary or consequential acts, matters, and things as it deems proper for the execution of this Act—
- (2) In respect of any land granted in fee simple, whether within or without the district, which Brisbane City Council by resolution declares to be required by it for or in connection with any of the purposes of this Act, the council shall be a constructing authority under and within the meaning of the *Acquisition of Land Act 1967*, the provisions whereof shall apply and extend accordingly.
- (2A) Whenever in the opinion of the board it is expedient for the execution of this Act and facilitating the execution and management of the works and business of the board, the board may, with the approval of the Governor in Council, construct, acquire, purchase, contract for the use of, work, maintain, and manage—
 - (a) any tramway;
 - (b) any coalmine;
 - (c) any quarry;
 - (d) any gravel pit;
 - (e) any cement mill;
 - (f) any mine containing alum or other mineral requisite for the purposes of the operations of the board;
 - (g) any sawmill; and in connection with the working thereof employ or contract with teamsters for drawing timber, purchase and work teams for drawing timber, and make advances to or guarantee the liability of teamsters who purchase teams for drawing timber;

Metropolitan Water Supply and Sewerage Act 1909

- (h) works for the manufacture of pipes or fittings or other apparatus for use in the operations of the board, with all necessary machinery, plant, and equipment.
- (2B) Any such tramway may be constructed, worked, and managed in, upon, across, over, or under any road, reserve, or navigable stream.
- (2C) The board may use and employ upon any such tramway locomotive engines propelled by steam or other locomotive power and rolling stock to be drawn and propelled thereby.
- (2D) The board may carry for hire upon any such tramway for the public, passengers, goods, live stock, and material, at such rates as shall be fixed by by-laws of the board made under this Act (which by-laws the board is hereby empowered to make), and in so doing shall have no further liability than the liability of stage coach proprietors and common carriers under the laws of Queensland.
- (3) The board may construct and provide works and machinery for collecting, receiving, storing, disinfecting, purifying, distributing, destroying, utilising, or disposing of sewage and sewage matter; and may establish sewage farms.
- (3A) For such purposes, the board may—
 - (a) contract to supply for any period not exceeding 21 years any person with sewage, and as to the execution and cost of works for the purposes of such supply;
 - (b) contract for the purchase, sale, or disposal of screenings, sludge, and other materials.
- (4) The board may deal with any land held by it for sewerage purposes in such manner as it deems most profitable, either by leasing the same for a period not exceeding 21 years for agricultural or other purposes, or by contracting with some person to take the whole or part of the produce of such land, or by farming such land and disposing of the produce thereof; subject to this restriction, that in dealing with land for any of the above purposes provision shall be made for effectually disposing of all sewage brought to such land without creating a nuisance.
- (4A) If the board agrees with any person as to the supply of sewage to such land and as to the works to be made for the purpose of

such supply, it may contribute to the expense of carrying into execution by such person all or any of the purposes of such agreement.

- (5) The board may enter upon any land or road and make surveys and take levels, and set out such parts of any work as it thinks fit, and break up the soil, and carry out therein all necessary operations, and erect fences, and remove or use any earth, trees, timber, materials, and other things in, on, or under the land or road, and where necessary carry on blasting operations.
- (6) The board may construct and maintain in, on, or under any road, or under any railway or tramway, or in, on, through, across, over, or under any land, pipes, streams, ditches, flumes, sewers, drains, manholes, siphons, tunnels, and other works, and open, cleanse, repair, alter, discontinue, or remove any of them.
- (6A) Such alteration or discontinuance of a sewer or drain shall only be permitted on condition of providing a sewer or drain as effectual for the use of any person who is thereby deprived of the lawful use of a sewer or drain.
- (7) The board may temporarily place on any part of any road any pipes, fittings, apparatus, appliances, or things during or in preparation for the construction of any works.
- (7A) However, such pipes, fittings, apparatus, appliances, or things shall not be so placed as unnecessarily to obstruct traffic or the drainage of any road, and that no more of the same shall be so placed than are reasonably necessary for the works as the works proceed.
- (8) The board may divert, intercept, and store all water in or coming from any stream, watercourse, or other source, or in any water reserve or catchment area under the control of the board, and alter the course of any such stream or watercourse, and take any water found under or on any land.
- (8AA) The board shall, when reasonably practicable, provide other watering places and channels for the use of adjoining lands in place of those taken away or interrupted.

Power as to watercourses etc.

- (8A) The board may, within its district or any reserve or catchment area, or on any river, stream, or watercourse under its control, contract for or itself undertake—
- (a) works for the prevention of the pollution of any river, stream, or watercourse, and for the reduction, abatement, and removal of obstructions, annoyances, and nuisances;
 - (b) the dredging, deepening, and widening of any river, stream, watercourse, or other water or source of water supply;
 - (c) the removal from any river, stream, watercourse, or other water or source of water supply, or from the bed or banks of the same, of weeds and other growth driftwood logs trees branches and other timber rock sand stone and gravel or other obstructions, and may dispose of the same towards recouping the cost of removal;
 - (d) construct and maintain any work necessary to prevent floods or damage from floods of rivers, streams, or watercourses, and all walls, embankments, and works necessary for rendering such work effective;
 - (e) construct and maintain works for the preservation of the bed and banks of any river, stream, or watercourse from erosion or other damage or injury from any cause;
 - (f) the filling up, levelling, grading, and reclamation of low-lying or flooded lands.
- (8B) However, nothing herein shall authorise the board to interfere with the banks, bed, or stream of any tidal water at any place subject to tidal influence without the consent of the Governor in Council.
- (9) The board may cause any sewage to discharge upon land acquired by the board for that purpose, or to communicate with the sea or any arm thereof, or with any stream or watercourse, or to be sold or otherwise disposed of as it sees fit.
- (9A) The board shall not make or use any sewer, drain, or outfall for the purpose of conveying any sewage or filthy water into the sea or any arm thereof, or into any stream or watercourse

until such sewage or filthy water is purified and rendered innocuous in its effects.

- (10) The board may construct ventilating shafts or tubes in any road or land, and may, if it thinks fit, carry them up the exterior wall of any structure, whether public or private.
- (10A) However, the mouth of every such shaft or tube shall be at least 6ft higher than any window or door situated within a distance of 30ft therefrom.
- (10B) The board may make use of the chimney of any public building or of any factory or of any tramway building as a ventilating shaft or tube.
- (11) The board may cause the drainage from sewerage construction works to flow along any channel or watercourse during the course of such construction.
- (12) If the board deems it necessary to alter the situation of any tram rails, water pipes or water works, gas pipes, or gas works, hydraulic steam or other pipes, electric or telephonic lines, pneumatic pipes or tubes, or other works laid in or under or over any road or land, it may, by notice in writing, require the person to whom the works belong to alter the situation of the same in such manner and within such reasonable time as is specified in such notice.
- (12A) The expense connected with any such alterations shall be paid by the board.
- (12B) If such notice is not complied with, the board may make the alterations required.
- (13) In the exercise of the powers conferred by this Act, the board shall do as little damage as may be.
- (14) The board shall not exercise any of its powers under this Act in such a manner as to create a permanent nuisance.

34A Works by tramway company

Notwithstanding anything contained in the *Tramways Acts 1882*, the following provisions shall apply where any company within the meaning of that Act and notwithstanding anything contained in the *Brisbane Tramway Trust Act 1922* the following provisions shall apply where the trust proposes

at any time to exercise or exercises its powers under the said Acts by doing any work which would alter the position of, or in any manner or to any extent endanger or interfere with, any of the works of the board—

- (1) The company shall give to the board 14 days previous notice in writing of the intention to begin the work, accompanied by a plan and section of the work.
- (2) If within 14 days after service of such notice the board so directs, the company or trust shall make such reasonable modifications in the plan of the proposed work as are requisite for the proper protection of the board's works.
- (3) The work as so modified (where any modification is so directed) shall be carried out at the cost of the company or trust under the superintendence and to the reasonable satisfaction of some competent person appointed by the board.
- (4) All works of the board shall, notwithstanding that they may have been executed or altered wholly or in part by the company or trust, remain under the sole control of the board and shall be thereafter maintained by the board in the same manner as if the tramway had not been constructed.
- (5) If any dispute shall arise between the board and the company or trust with respect to any matter arising under this section, such dispute shall be referred to the Minister in manner prescribed by the by-laws (which by-laws the board is hereby empowered to make), and the Minister shall determine such dispute, and the Minister's decision thereon shall be final and binding upon the parties.

35 Provision relating to breaking up roads

- (1) The following provisions shall apply to the breaking up of roads by the board or by any person under its authority under this Act—

Notice

- (2) Before the board or such person breaks up any road, the board shall give to the local government concerned notice in writing, specifying the proposed work, its exact location, and the date

on which the work will be commenced, not less than 48 hours before beginning such work, except in cases of emergency which justify the omission to give such notice, in which cases the notice shall be given as soon as conveniently may be, being not more than 48 hours after beginning the work or after the necessity for it has arisen.

Traffic

- (3) Except by the permission of the local government, the traffic in such road shall not at any one time be stopped or hindered along more than half the width thereof, nor, if the half left open is of less than the clear width of 14ft, along more than 200yds in length.

Temporary works

- (4) In any case the board or such person acting under its authority shall make such temporary and other works for the convenience of passengers and traffic as the circumstances require.

Superintendence

- (5) When a notice is required to be given, a road shall not, except in case of emergency, be broken up except under the superintendence of an officer of the local government concerned.
- (5A) But if such officer, after notice, fails to attend at the time fixed for the breaking up, or if such officer refuses or neglects to superintend the work, the board or such person may perform the work without such superintendence.

Reinstatement without delay, and precautions

- (6) When the board or such person breaks up a road, it or the person shall—
 - (a) with all convenient speed complete the work for which it is broken up, and fill in the ground, and reinstate and make good the road and carry away all surplus materials and the rubbish occasioned by the operations.

All such surplus materials and rubbish shall be the property of the board and may be carried away in such

manner as in the opinion of the board will occasion the least expense; and

- (b) at all times, whilst any such road continues broken up, cause it to be fenced and guarded, and a sufficient light to be kept there at night; and
 - (c) keep every road which has been so broken up in good repair for 6 months after making good the same.
- (6A) The board and such person as aforesaid shall each of them be liable in respect of any injury or damage occasioned to any person by reason of the failure of the board or such person as aforesaid to comply with the foregoing provisions.

When local government may reinstate

- (7) If the board or such person as aforesaid, having broken up a road—
- (a) keeps it broken longer than is reasonably necessary, or fails within 7 days after filling in the opening to make good such road or to carry away all surplus materials, and the rubbish occasioned by the operations, to the satisfaction of the local government concerned, or further, in the event of the trench sinking at any time within 6 months next ensuing, and attention having been called to such sinking;
 - (b) neglects to cause the road to be fenced, guarded, and lighted as prescribed;

the local government concerned may do the necessary work, and recover from the board or the person in default the expense incurred.

36 Examination of gas pipes to ascertain cause of water being fouled

- (1) For ascertaining whether water is fouled by the gas of any person making or supplying gas, the board may break up the ground and examine the pipes and works of such person.
- (1A) But before proceeding to do so the board shall give at least 24 hours notice, in writing, to such person of the time at which the breaking up and examination will take place, and shall

give the like notice to the local government having the control of any road to be broken up.

- (2) If upon the examination it appears that the water has been fouled by gas belonging to the said person, all the expenses of the operations shall be paid by the person.
- (3) But if it appears that the water has not so been fouled the board shall pay all the expenses of the operations, and also make good to the said person any injury occasioned to the person's works by the operations.

37 Damage to works by electricity

- (1) If upon an examination it is found that any work of the board has become injured or defective by reason of the escape thereto or influence thereon of electricity from any electric tramway or any electric line or electric works, all expenses of opening up and reinstating the ground, and of examining, removing, reinstating, or replacing any such work of the board may be recovered by the board from the owner or person controlling such tramway line or works.
- (2) However, if any dispute shall arise between the board and the owner of or person controlling such tramway, line, or works as aforesaid with respect to any matter arising under this section, such dispute shall be referred to the Minister in manner prescribed by the by-laws (which by-laws the board is hereby empowered to make), and the Minister shall determine such dispute, and the Minister's decision thereon shall be final and binding upon the parties.

37A Structures not to be placed so as to interfere with works without authority

- (1) Every person shall, before erecting any structure or doing any other work under any statutory authority or otherwise in, upon, or along, or under any road in which any of the works of the board are placed, the erection or doing of which would alter the position of or require such alteration of or in any way interfere either directly or indirectly with any such works of the board, or cause additional expense in the repair or maintenance thereof, give to the board notice in writing of the

person's intention so to do, together with full particulars of the nature of the work so to be erected or done.

- (1A) Unless the board within 1 calendar month after the service of the notice delivers to the person giving such notice a statement of any objections the board has to the proposed work and the reasons for such objections, the board shall be taken to have approved of the same.
- (2) If any objections are made by the board which are considered unreasonable by the person giving such notice, or in case a mutual agreement cannot be arrived at, the matter shall be referred to the Minister, who shall decide all questions in difference between the parties and arising by virtue of this section, and may direct what compensation or expenses (if any) shall be paid to the board by the person desiring to execute such proposed work; and the decision of the Minister shall be final and binding on the parties.
- (3) But such proposed work shall not be proceeded with until the parties have agreed, or such decision has been given, and the amount of any compensation or expenses directed to be paid to the board has been actually paid.

38 Local government to give particulars etc.

- (1) Every local government shall, when and so often as required by the board, furnish to the board, in the form required by it, all such information and particulars as are at its disposal with respect to any surveys of lands or alignments of roads, or the situation, level, fall, and condition of any works made or constructed by it or under its control.
- (1A) Every local government shall, when and so often as is required by the board, in the form required by it, give particulars of the permanent levels of any road in which it is proposed to lay any pipe, sewer, or drain.
- (1B) Any local government acting in contravention of subsection (1) or (1A) shall be liable to a penalty not exceeding \$100.
- (2) In the event of the board requiring the permanent level of any road which has not been fixed, the board shall apply to the local government for such level, and the local government

shall, within 2 months from the date of the receipt of such request, furnish such level.

- (2A) If the local government fails to furnish the board with such level within the time specified, then, in the event of the local government altering the road at any time thereafter to its permanent level, the board shall alter the situation of its works in such road, and the cost of so doing shall be a debt due by the local government to the board.
- (3) The existing level of any road under, in, or upon which any mains, pipes, or other works of the board are laid or constructed, and which were so laid or constructed prior to 29 December 1915, shall for the purposes of this section be deemed to be the permanent level of such road.
- (4) The local government shall give to the board at least 7 days notice in writing of its intention to alter the level of any road the permanent level of which has been furnished by the local government to the board, and in which any work of the board has been placed, and of any road the existing level of which is deemed to be the permanent level by virtue of subsection (3), and shall state the extent of the proposed alteration.
- (4A) Thereupon the board may alter the situation of its work, and the cost of so doing shall be a debt due by the local government to the board.
- (4B) However, ordinary maintenance and repairs and ordinary wearing down of the surface of a road shall not be deemed to be an alteration of the permanent level, and in all such cases the board shall, when required by the local government, adjust the surface boxes of valves, hydrants, and other fittings to the level of the surface of the road at the cost of the local government.
- (5) In the event of the board failing to lay its main pipes and services to suit the permanent level of any road after being furnished with the same by the local government, or to suit the existing level of any road which is for the purpose of this section deemed to be the permanent level of such road, the board shall raise or lower such mains and services at its own cost upon receiving notice from the local government of the intention to form the road in question to its permanent level.

- (6) In the even of the board constructing a main pipe or doing any other work in a road other than in a road the existing level of which is for the purposes of this section deemed to be the permanent level of such road, without first ascertaining the permanent level from the local government, the cost of any alteration to any such main pipe or work when the road is being formed to the permanent level shall be borne by the board.
- (7) The local government shall be consulted by the board as to the position in which scour-pipes are to be laid in any road; and if the same are not placed in a position approved by the local government the cost incurred in the removal of the same at any time shall be borne by the board.
- (8) The local government in whose area any works undertaken by the board are in progress is hereby absolved from all liability in respect of any injury of damage occasioned in consequence of such works.

38A Particulars of valuations to be furnished by local government

- (1) Every local government having jurisdiction within the district shall, within 1 calendar month from the date of the passing of the *Metropolitan Water Supply and Sewerage Acts Amendment Act 1921*, furnish to the board, in the form required by it, particulars of the valuations of all rateable lands within its area or so much thereof as is comprised within the district.
- (2) Every local government shall from time to time, immediately any fresh valuations shall be made of any rateable land as aforesaid, furnish to the board notice of such valuations and the amounts thereof.

Part 4 **Water supply**

39 **Water reserves and catchment areas may be constituted**

- (1) The Governor in Council may from time to time, by order in council, constitute and define the boundaries of any water reserve or catchment area for the purposes of this Act, and may place any such water reserve or catchment area under the control of the board.
- (2) Any such water reserve or catchment area may be situated wholly within or wholly without the district, or partly within and partly without the district.

40 **Board to supply water for domestic purposes**

- (1) The board shall, as far as practicable, afford and distribute to all persons entitled to receive it under this Act a constant supply of pure water for domestic purposes in the prescribed manner.
- (2) However—
 - (a) the board shall not be bound to supply water for any domestic purpose unless satisfied that the fittings used, and the mode and arrangement of them, are such as are prescribed or authorised;
 - (b) notwithstanding anything contained in this Act or in any agreement, the board shall not be bound to supply water to any person, or be liable to any penalty or damages for not supplying water to any person, if the want of such supply arises from unusual drought or other unavoidable cause or accident;
 - (c) the board may refuse to supply water for any purpose specified in the by-laws.

41 **Supply to Botanic Gardens**

- (1) The board shall provide, without any payment, for use in the Botanic Gardens, Brisbane, a supply of water not exceeding 5000000gal in quantity in any year.

Supply to hospitals

- (2) The board shall also provide, without any payment, to each of the hospitals hereunder mentioned, a supply of water not exceeding in any year the quantity mentioned respectively in connection with each such hospital—
- Brisbane General Hospital—6000000gal;
 - Hospital for Sick Children—3000000gal;
 - Mater Misericordiae Hospital and Queensland Blind, Deaf, and Dumb Institution—each 2500000gal;
 - Lady Bowen Hospital, Lady Lamington Hospital, and Wattlebrae Infectious Diseases Hospital—each 1000000gal;
 - Friendly Societies' Hospital—500000gal.
- (3) The board shall also provide without any payment a supply of water in such quantities and for such period of time to any public hospital or any public gardens under the control of a local government within the area under the jurisdiction of the board as the Governor in Council may from time to time direct.

Supply of water for public purposes

- (4) In all pipes in which any fire hydrant is fixed the board shall provide and keep constantly laid on for use, unless prevented by unusual drought or other unavoidable cause or accident or during necessary repairs, an adequate supply of water for the following purposes—
- (a) cleansing sewers and drains;
 - (b) cleansing and watering roads;
 - (c) supplying any baths, established for the use of the inhabitants and paid for out of any local fund;
 - (cc) supplying any drinking fountains and horse troughs established for the use of the inhabitants and paid for out of any local fund;
 - (d) extinguishing fire.
- (5) For the purposes referred to in subsection (4)(b) and (c), such supply shall be provided in such quantities and at such price

and upon such terms and conditions as may be agreed upon by the board and the local government concerned, or, if they cannot agree, as may be fixed by the Minister.

- (6) All persons are empowered to take free of charge and to use so much water as is necessary for extinguishing fire.

42 Water supply to adjoining areas

Upon application by any local government whose area adjoins the district, or through whose area any stream or pipe of the board passes, the board may supply water to such local government by measure and on such terms and conditions as may be agreed upon between the board and such local government.

42A Water supply to water supply board

- (1) Upon application by any water supply board constituted under the *Rights in Water and Water Conservation and Utilization Act 1910*, and having jurisdiction in a water supply area constituted under those Acts through which any stream or pipe of the Metropolitan Water Supply and Sewerage Board passes or in which any of its waterworks have been constructed, that board may supply water to such water supply board by measure and on such terms and conditions as may be agreed on between them.
- (2) For the purposes of the lastmentioned Act, any such stream, pipe, or waterworks as aforesaid shall be deemed to be a source of water supply.

43 Request for supply to premises in a road

- (1) When a main pipe has been laid down in any road and the board is prepared to supply water therefrom, notification of the fact shall be advertised in a newspaper, and thereupon the board shall, on receiving from the owner or occupier of land abutting on any road in which such main pipe has been laid down a written request for a supply of water for domestic purposes, construct and fix or authorise some competent person to construct and fix, at the cost of such owner or

occupier, all the works and fittings necessary for so supplying water.

- (2) However, the board may, if it thinks fit, adjust the cost of such works and fittings so as to equalise the amounts payable by each owner or occupier of land which abuts upon a road in which a main pipe is laid otherwise than along the centre of such road.

44 Supply in other cases

- (1) The owner or occupier of any land situated within the district, but more than 300ft from any main pipe of the board, may, in writing, request the board to supply water for domestic purposes to such land.
- (2) The owner or occupier of any land not situated within the district may, in writing, request the board to supply water for domestic purposes to such land.
- (3) The board may comply or refuse to comply with any such request, and if it complies may construct and fix or authorise some competent person to construct and fix, at the cost of such owner or occupier, all the works and fittings necessary for so supplying water.

Subject to same provisions as lands within district

- (4) However—
 - (a) all lands to which the board supplies water under this section, and the owners and occupiers thereof, and the works and fittings for the supply, shall thenceforth be subject to this Act in the same manner as if such lands abutted on a road within the district in which a main pipe is laid down;

Expenses to be paid by applicant

- (b) the person who makes such request shall, from the time when the supply is given to the person, pay water rates not in any case less in amount than those which would have been payable by the person if the land were so situated as last aforesaid;

- (c) the board may, if it thinks fit, adjust the cost of such works and fittings so as to equalise the amounts payable by each owner or occupier of land which abuts upon a road in which a main pipe is laid otherwise than along the centre of such road.

45 Agreement to supply water for non-domestic purposes

- (1) Subject to this Act, the board may agree with an owner or occupier of land situated within or without the district, to supply water to be used by the owner or occupier on that land, but not elsewhere, for purposes other than domestic purposes.
- (2) Water supplied by the board at places other than a reservoir to a consumer for purposes other than domestic purposes shall be charged and paid for by measure at a prescribed price, or upon such other basis of assessment as the board thinks proper.

Price to be uniform

- (3) The price charged for water supplied for any purpose other than domestic purposes shall be the same to every person for the same quantity of water supplied, but the cost of conveying the water to the lands of the consumer shall be borne and paid by the consumer in addition to such price.
- (3A) When the water is conveyed from the works in pipes or streams, the property of the board, the cost to the board of conveying the water shall be charged in proportion to the distance over which it is so conveyed.

Agreements by board with owners for supply

- (4) An agreement as aforesaid with such owner or occupier may be for the supply of water for a term not exceeding 14 years, and at a price by measure to be specified in the agreement, such price not being less than the current price, at the time of making the agreement, of water supplied or to be supplied by measure by the board.
- (4A) In every such agreement the owner or occupier of the land shall agree to pay the agreed price for the term therein limited, and to take not less water in any year than the minimum

quantity therein specified, and to pay a minimum amount for water therein fixed.

- (4B) Any such agreement made by the owner or occupier, whether under seal or not, shall be deemed to be a covenant running with the land, and shall bind the land and the successive owners and occupiers thereof during the term.
- (4C) However, in the case of land held under the *Land Title Act 1994*, a caveat notifying the terms of the agreement shall be lodged in the office of the registrar of titles.
- (4D) No such caveat shall be removed except upon the order of the Supreme Court or a judge thereof, which may be made upon petition or summons in a summary way upon proof that the agreement has ceased to have effect.
- (4E) Nothing in any such agreement shall be construed to create any obligation on the part of the board to supply any fixed quantity of water in the event of an insufficiency of water requiring, in the opinion of the board, a discontinuance or lessening of the supply as hereinafter provided.

Power to regulate order of supply in case of deficiency

- (5) In the event of the water available to the board for supply for purposes other than domestic purposes falling short of the quantity necessary to supply water in sufficient quantity to be of practical service to all consumers for such purposes, the board may, whenever and as often as it is satisfied of the actual or approaching insufficiency of such supply, from time to time, make orders regulating the order of priority in which and the quantities with which the various consumers shall be entitled to be supplied.

Protection of owners of improved land

- (6) When it is necessary to construct a pipe or stream for conveying water for purposes other than domestic purposes through improved or occupied land, the shortest and most direct route reasonably practicable shall be taken upon which the pipe or stream can be constructed with an appropriate grade, so as to discharge the water at a point where it can be conveyed to and used upon the land where it is required.

- (7) No improved or occupied land shall, without the written consent of the owner, be subjected to the burden of 2 or more pipes or streams for conveying water across the land when the same purposes can be reasonably effected by conveying in 1 pipe or stream all the water required to be so conveyed.
- (8) However, when a pipe or stream has been constructed for the said purpose, and it is desired to convey a larger quantity of water across the land, the owner of the land shall be bound to allow it to be enlarged and used by any other person or the board.

46 Board may sell water

- (1) The board may, under a contract in that behalf, sell and supply water by measure to consumers, who, subject to any minimum amount fixed by by-law as payable in every case, shall pay according to the quantity of water consumed, such quantity being ascertained by a meter fixed on the land of the consumer or by any other prescribed means; and the board shall by by-law fix the scale of charges to be paid.
- (1A) The board may by such by-law fix a minimum amount as payable in every case.
- (1B) The minimum amount so fixed shall be deemed to be a water rate, and the consumer who is supplied under the contract shall be deemed to be a ratepayer in respect of such water rate.

Dispute as to quantity to be settled by justices

- (2) If the board and a consumer differ as to the quantity of water consumed, such difference may be determined, upon the application of either party, by 2 or more justices, who may also order by which of the parties the costs of and incident to the proceedings before them shall be paid, and the decision of the justices on matters of fact shall be final and binding on all the parties.
- (3) Subject to the provisions of subsections (1) to (1B) with respect to the payment of a minimum amount as and by way of a water rate payment for water supplied by the board by measure shall be made at such times and for such periods as the board determines, and shall, if the board thinks proper, be

made wholly or partly in advance and subject to periodical adjustment.

47 Lessening etc. supply for domestic purposes

- (1) If and whenever the board considers it expedient or desirable in the interests of the board or of the consumers so to do, the board may discontinue or lessen in quantity the supply of water for domestic purposes, or limit the hours during which water supplied for domestic purposes may be used, or restrict the use of water supplied for any particular domestic purpose or purposes as against any other domestic purpose or purposes.
- (2) Any such discontinuance, lessening, limitation, or restriction may be made to apply to the whole or any part of the district or to any agreement for supply outside the district (other than an agreement dated 18 November 1920, between the board and the Council of the City of Ipswich for the supply of water to the City of Ipswich), as the board in its absolute discretion thinks proper, and the board shall not on that account incur any liability.
- (3) However, before any action is taken by the board under this section reasonable public notice shall be given by the board of its intention to take the action proposed by it.
- (4) Any person who uses water of the board in any manner in contravention of subsections (1) to (3) shall be guilty of an offence against this Act.

48 Lessening etc. supply for other purposes

- (1) When the board apprehends that by reason of drought or other cause the water available will not suffice for domestic purposes unless the supply is lessened or discontinued for other purposes, the board may lessen or discontinue the supply of water for all purposes other than domestic purposes, or limit the hours during which water supplied for purposes other than domestic purposes may be used, or prohibit the use of water for any specified purpose or purposes.
- (2) Any such lessening, discontinuance, limitation, or prohibition may be either general or during specified hours, and may be

made to apply to the whole or any part of the district or to any particular consumer or consumers or classes of consumers.

- (3) However, before any action is taken by the board under this section reasonable public notice shall be given by the board of its intention to take the action proposed by it.
- (4) From and after the date specified by the board, the board may take such action and shall not on that account incur any liability.
- (5) Any person who uses water of the board in any manner in contravention of subsections (1) to (4) shall be guilty of an offence against this Act.

49 Public fire hydrants

- (1) At the request of the local government having control of the place in question, the board may fix upon main or other pipes throughout the district fire hydrants for the supply of water for extinguishing fire.
- (2) The board shall—
 - (a) keep such fire hydrants in effective order; and
 - (b) deposit keys thereof at such stations as are required by the local government; and
 - (c) put up a sufficient public notice in each road in which a fire hydrant is placed, showing its situation.
- (2A) Every such notice shall be posted in some conspicuous place, and may be affixed to any structure or tree in such road.
- (3) The board shall, where practicable, lay its main pipes in and along such part of the road as is mutually agreed on by the local government and the board; and when in any case a mutual agreement cannot be arrived at, the matter shall be referred to the Minister, who shall decide as to the position of such pipes, and the Minister's decision shall be final.

50 Fire hydrants near factories

The board may, at the request of the owner or occupier of a factory or other premises situated in a road in which water has been laid on by the board, place and maintain in effective

order a fire hydrant, as near as convenient to such factory or other premises, and shall in such case supply a key of such fire hydrant to the owner or occupier; but the fire hydrant shall not be opened or used, nor shall the key be used, except for the purpose of extinguishing fire or for the purpose of keeping the fire hydrant in proper working order.

51 Private fire services

- (1) With the written permission of the board, private fire services may be installed on any land.
- (2) Every such service shall be sealed, and, except in case of fire, no person shall, without the written permission of the board, wilfully break or tamper or otherwise interfere with such seal.
- (3) If any such seal is accidentally broken, the occupier of the land shall, within 24 hours after such breakage or the discovery thereof, give written notice of such breakage to the board.
- (4) No water shall be taken from any such service without the written permission of the board except for the purpose of extinguishing fire.
- (5) The board may cause a meter to be fixed on any such service.
- (6) The board may at any time refuse to continue a fire service to the land.

52 Purpose for which water may be used

Water belonging to or supplied by the board for domestic purposes shall not be taken or used—

- (a) for purposes other than domestic purposes (except for the purpose of extinguishing fire) unless the person who takes or uses it does so by the permission of the board;
- (b) for watering cattle or cleansing wheeled vehicles, other than private vehicles, or for any trade, manufacture, or business, or for troughs or fountains, or for any ornamental purposes, or for irrigation, or as a motive power, or for heating or ventilating purposes, except upon payment of the additional sum (if any) prescribed in that behalf.

53 Meters

- (1) In addition to and without prejudice to the powers of the board to sell and supply water by measure under a contract as provided in section 46.
- (1A) The board may cause to be placed a meter and any other prescribed fittings on any land supplied with water, and to be attached to any fittings there.
- (1B) When a meter has once been so placed, the owner or occupier shall not receive a supply of water for domestic purposes except by means of the meter, unless the board consents to its removal or to the supply of water to a part of the land otherwise than by means of the meter.
- (1C) The board may charge for the use of a meter the prescribed rent, together with the cost of fixing, removing, repairing, or replacing the meter and its fittings whenever necessary.
- (2) All water which (or, if a minimum amount is prescribed as payable in every case, all water which being in excess of the prescribed quantity) passes through a meter shall be paid for by the owner or occupier as the case may be, receiving the water, at the prescribed price.
- (2A) The minimum amount so prescribed shall be deemed to be a water rate.
- (3) Notwithstanding anything contained in this Act, the board may refund the whole or any part of money paid by any person in respect of a charge made in connection with the fixing of a meter on any land, and may in its books of account write off any such charge against persons, which have not been paid, if the board determines that such charge shall no longer be made.

54 Prescribed fittings only to be used

- (1) An owner or occupier of land supplied with water shall not use in connection with such water any fitting or sanitary convenience other than such as is prescribed or authorised; and it shall not be arranged in a mode different from that prescribed or authorised.

- (2) Every fitting or sanitary convenience arranged or attached in contravention of this section shall become the property of the board, and may be seized and removed by an authorised officer.

55 Repairing fittings

Every person supplied with water shall keep all pipes and fittings in or upon the person's land in good repair, so as effectually to prevent the water from running to waste and the collection therein of unwholesome matter.

56 Notice of intention to connect or disconnect fittings

No person shall—

- (a) connect a fitting with any other fitting; or
- (b) disconnect a fitting from any other fitting;

through which water is or is intended to be supplied, unless the person has given to the board not less than 24 hours notice in writing of the person's intention so to do, and has obtained the permission of the board.

57 Protection of fittings

- (1) No person, unless authorised by the board, shall remove, alter, repair, renew, or uncover any fitting which is the property of the board.
- (2) Fittings, whether the property of the board or not, shall not be subject or liable to be seized or taken in execution by process of law or under distress for rent.
- (3) Fittings which are not the property of the board shall not be removed, altered, repaired, or renewed until the prescribed notice has been given to the board, and the permission of the board has been obtained.

58 When water may be cut off

- (1) The board may, upon giving at least 48 hours notice in writing of its intention so to do, or in any case of emergency without notice, cut off the water supply when—
 - (a) the land is unoccupied; or
 - (b) any rates or any moneys due for water or fittings or drainage apparatus supplied have remained unpaid for 30 days after they became due; or
 - (c) any fitting used there in connection with the supply is out of repair; or
 - (d) any person supplied with water is guilty of any offence against any provision of this Act relating to the waste use, misuse, undue consumption, fouling, or contamination of water; or
 - (e) entry upon the land is refused to an authorised officer at any reasonable time where admission is claimed for any of the purposes of this Act, or such officer is obstructed in doing any act by this Act authorised to be done.
- (1A) When the land is again occupied, or all the rates and moneys due have been paid, or this Act is being duly complied with, the water supply shall, on demand made in writing by the owner or occupier of the land, be restored.
- (1B) Cutting off the water shall be a cumulative remedy for enforcing payment of rates or moneys due or the repair of fittings, and shall not relieve the owner or occupier from liability in respect of them.

Where price under agreement unpaid

- (2) When any moneys due under an agreement for the supply of water have remained unpaid as aforesaid, the board may also cancel the agreement on the ground of such non-payment.
- (3) The remedy given by subsection (2) shall be in addition to any other remedy to which the board is entitled.

58A Electricity and motive power

- (1) Subject to any general Act in force for the time being regulating such matters or any of them, the board may—
 - (a) enter upon and continue the manufacture of electricity and the conservation of hydraulic or other power and the manufacture of all materials arising from such manufacture or conservation, by means of any apparatus or other appliances, and by any process, act, or invention now or hereafter to be known or used, and from any substance that now is or may hereafter be used for such purposes;
 - (b) whenever necessary take and use water from any river, stream, watercourse, or other source of supply in the district, or in any water reserve or catchment area, for the aforesaid purposes, and for using and supplying light or electric or hydraulic or other power;
 - (c) in addition to the powers conferred by this Act on the board in relation to the construction and maintenance of works, erect, make, construct, and fix all appliances, apparatus, works, matters, and things of such construction and in such manner as the board thinks necessary or proper; and do all such acts and things as the board from time to time thinks necessary or proper for carrying into effect the purpose and meaning of this section;
 - (d) erect and fix posts, pillars, pilasters, lamp-irons, lamps, and other apparatus in and upon any road or land under the control of the board or against any structure abutting on any road or any such land;
 - (e) dig trenches and drains, and fix meters, mains, and pipes, and put stopcocks, siphons, plugs, or branches from such pipes in, under, across, and along any road or such land, and also, with the consent of the owners or occupiers thereof, in, under, across, and along any structure, premises, or land in such manner as the board thinks necessary or proper;
 - (f) erect and fix any machine or other apparatus necessary for securing to any structure, premises, or land a proper and sufficient supply of light or electric or hydraulic or

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- other power, or for measuring and ascertaining the extent of such supply;
- (g) use light or electric or hydraulic or other power in or in connection with any works or lands the property of the board or under its control;
 - (h) contract with any person for the supply of light or electric or hydraulic or other power to the person or to any structure, premises, or land of which the person is the owner or occupier, in such manner and under such stipulations as the board thinks proper.
- (2) Any authorised officer may, at all reasonable times and as often as the authorised officer thinks necessary—
- (a) inspect and examine all appliances, apparatus, and works in or on any structure, premises, or land owned or occupied by any person with whom the board has contracted for the sale or supply of light or electric or hydraulic or other power; and
 - (b) repair, renew, and alter the same; and
 - (c) take account of the amount of electricity or hydraulic or other power consumed or used under such contract; and
 - (d) compare the amount so ascertained to be consumed or used with the terms of such contract, and regulate the supply in accordance therewith; and
 - (e) enter any such structure, premises, or land for any other purpose consistent with and relating to such contract.
- (2A) Any such officer may inspect and examine at all reasonable times any appliances, apparatus, or works which have been made, erected, or set up by any person with whom the board has so contracted.
- (2B) If such officer considers any such appliances, apparatus, or works to be incomplete or otherwise defective, the person who erected and put up the same shall not be entitled to call on the board for the fulfilment of such contract until all such appliances, apparatus, and works have been altered or removed, and other appliances, apparatus, and works have been substituted therefor, to the satisfaction of such officer.

- (2C) The provisions of subsections (2) to (2B) shall be in addition to and not in derogation of any powers conferred on the board by this Act or any other Act.
- (3) Any person who, without the permission in writing of the board so to do—
- (a) lays or fixes any pipe or wire to communicate with any pipe or wire belonging to the board, and fixed for the purposes aforesaid; or
 - (b) uses burners or lamps of larger dimensions or in any other manner than such contract as aforesaid permits; or
 - (c) supplies any other person with any part of the light or electric or hydraulic or other power supplied to the person by the board;
- shall be liable to a penalty not exceeding 40c for every day during which such pipe or wire so remains, or such excess is committed, or such supply is furnished.
- (4) If any person having contracted with the board uses any light or electric or hydraulic or other power and refuses or neglects, for 21 days after demand made, to pay to the board the sum of money then due under the contract, the president may, by signed warrant, direct an officer of the board to levy such sum of money by distress and sale of the goods and chattels of the person so refusing or neglecting, rendering the surplus (if any) to such person after the necessary charges of making such distress and sale are first deducted.
- (5) The board may also cut off and take away the supply of light or electric or hydraulic or other power from the premises of every person so refusing or neglecting, and thenceforth discontinue the supply.

Part 5 Sewerage and drainage

Division 1 Drainage areas

59 Constitution of drainage areas

To enable the board to carry out by instalments a comprehensive scheme for the drainage and sewerage of the district, in accordance with the moneys from time to time at the disposal of the board, the Governor in Council may from time to time, by order in council—

- (a) constitute a drainage area or drainage areas comprising lands situated within the district with such boundaries as he thinks proper;
- (b) alter the boundaries of any drainage area;
- (c) join any 2 or more drainage areas with or without the addition of outlying land so as to constitute 1 drainage area.

60 Sewerage works vested in board

- (1) All existing sewerage works within a drainage area vested in or under the control of a local government, which, in the opinion of the board, can be advantageously used in connection with the general sewerage scheme of the board, and which are described in the order in council constituting the drainage area, shall, on and after a date to be fixed by such order, without any assignment, transfer, or conveyance, be divested from the local government, and shall vest in and be under the control of the board.

Transfer of powers etc. from local government to board

- (2) On and after such date, within such drainage area, all the powers, rights, duties, liabilities, obligations, and property exercisable by, attaching to, or vested in such local government under any Act, for purposes the same as or similar to those of this Act, shall pass to and be exclusively exercisable by and vested in the board, and such local government shall cease to have any such jurisdiction and to

exercise any of such powers or be subject to any of such duties.

- (2A) In any case in which it becomes expedient so to do, any date fixed by the order in council aforesaid may be extended to a later date by another order in council, and in such case the provisions of this section shall be construed as having reference to the later date so fixed.

Adjustment

- (3) In every case the Governor in Council may, whenever necessary, finally and conclusively determine and adjust, as between the board and any such local government, all questions and matters requiring to be adjusted, including the question whether any works are or are not sewerage works, and also the amount of any debt due or incurred by such local government to the Treasurer or on debentures in respect of sewerage works so as to exonerate such local government from such debt; and if such debt was incurred by debentures may provide for and secure, in such manner as the Governor in Council thinks just, the due redemption thereof by the board at maturity, and the payment of interest accruing thereon in the meantime.

61 Maps of drainage areas

- (1) On the constitution of a drainage area, the board shall cause to be made a map thereof, on such scale and with such indications of levels and particulars of sewers, drains, and other works as the board thinks expedient, and shall cause such map to be from time to time revised, and such additions made thereto as will show the new sewers, drains, and works, and the date of every revision shall be expressed therein.
- (2) Every such map shall be kept at the office of the board, and the same or a copy thereof shall be open to inspection.

Division 2 General powers and duties

62 Maintenance, making, and cleansing of sewers

The board shall—

- (a) have exclusively the power to make sewers within a drainage area for the purposes of this Act;
- (b) keep in repair all sewers and drains vested in it;
- (c) cause all its sewers and drains to be constructed, covered, ventilated, and kept so as not to be a nuisance or injurious to health, and to be properly cleared, cleansed, flushed, and emptied.

63 Dwelling houses on low-lying land

It shall not be lawful, upon land within a drainage area which is so situated as not to admit of being drained by gravitation into an existing sewer, to erect any building to be used wholly or in part as a dwelling house, or to adapt any building to be used wholly or in part as a dwelling house, except with the permission in writing of the board and subject to and in accordance with such by-laws as the board may from time to time prescribe with reference to the erection of buildings on such land.

64 Structures not to be erected in, over, or under sewers

- (1) No structure shall be erected or placed in, over, or under any sewer vested in the board without the previous permission in writing of the board.
- (2) If any structure is erected or placed contrary to this section, the board may demolish and remove the same, and perform any works necessary for restoring or reinstating the sewer, and the person erecting or placing such structure and the person who has directed the work to be done shall jointly and severally be liable for the expenses incurred thereby.

65 No gully or ventilating shaft connected with sewer to be trapped without consent

No gully or ventilating shaft immediately connected with or appertaining to any sewer vested in the board shall be trapped, covered, or closed up by any local government without previous notice in writing being given to the board, nor if the board or an authorised officer within 1 week after the receipt of such notice expresses in writing its or his or her objection to the proposed work.

Division 3 Sewered premises**66 General notice when lands and roads are sewered**

- (1) The board shall from time to time after a sewer has been laid in any land or road or part of a road cause a general notice to be given as hereinafter mentioned that the board has made provision for carrying off the sewage of each premises which, or any part of which, is comprised in or is adjacent to such land or abuts on such road or part of a road, and is situated within 300ft of such sewer.
- (1A) After such time as shall be fixed by the board, each and every premises which, or any part of which, is comprised in or is adjacent to such land or abuts on such road or part of a road, and is situated within 300ft of such sewer, shall be deemed to be sewered premises within the meaning of this Act.
- (1B) For the purposes of this section in any such general notice the outer boundaries of the locality within which any such sewers have been laid need only be described.

Sch 5, form 2

- (2) The general notice shall be given by public placards posted up on such land or in the road or part of road in question, and shall be advertised in the gazette and at least once a week for 4 successive weeks in a newspaper, and shall be in schedule 5, form 2 or to the like effect.

67 Further general notice

- (1) The board may, by a further general notice order that the owner of each and every sewerer premises, if there are any buildings on such premises, shall, within such time as shall be specified in such further notice or within such further time as the board may allow, provide such proper sanitary conveniences, drains, and drainage apparatus connected with such sewer or sewers of the board as may be prescribed.
- (1A) In any further general notice, the name of the road on which such premises or part thereof abut shall be specified.
- (2) In fixing or allowing such time or further time, the board shall have regard to all the circumstances of each case, so that each owner shall have a reasonable opportunity of complying with the requirements of such notice.

Sch 5, form 3

- (3) The further general notice shall be given by serving the same on the owner of the sewerer premises, and shall be in schedule 5, form 3 or to the like effect.

68 Sewered premises

Every premises, whether or not situated or abutting as aforesaid, which is connected with any sewer of the board shall be deemed to be sewerer premises.

69 Local government to be notified

A copy of every such general notice and further general notice shall be posted by the board to the local government having jurisdiction in the locality in question.

70 Owners to submit plans etc.

- (1) Within 1 month after a date to be specified in the said further general notice, or within such further time as the board may, either before or after the expiration of such 1 month, allow, the owner of each and every sewerer premises shall, if there are any buildings on such premises—

- (a) submit to the board a plan for providing such premises with such sanitary conveniences and such drains and drainage apparatus, to be fitted and laid in such manner as may be prescribed by the by-laws, with such variations (if any) from such by-laws as the board, on written application made to it, may in writing approve.

In this case the board may approve such plan or make such alterations therein or modifications thereof as to the board seems proper; or

- (b) submit to the board a plan as aforesaid, and in writing request the board to give an estimate of the expense of executing the work in accordance with such plan.

In this case the board may approve such plan, or make such alterations therein or modifications thereof as to the board seems proper, and the board shall give an estimate of the expense of executing the work in accordance with such plan as so approved or as so altered or modified; or

- (c) in writing request the board to prepare a plan as aforesaid; or
- (d) in writing, request the board to prepare a plan as aforesaid, and give an estimate of the expense of executing the work in accordance with the plan so prepared.

- (2) The board shall, as soon as conveniently may be, approve of such plan, with or without alterations or modifications, or comply with any of the aforesaid requests, and shall thereupon notify to the owner such approval or compliance, as the case may be; and at the same time or at any time thereafter the board may by notice in writing order such owner, within 1 month from the giving of such notice, or within such further time as the board may allow, to execute the work in accordance with the plan so approved or prepared as aforesaid.

- (3) Any owner may, within 14 days from such order as aforesaid, or within such further time as the board may allow, request the board in writing to execute the work at the expense of such owner, either for the estimated amount or at actual cost.

- (4) If any owner fails or neglects within the limited time to submit any plan and to make any request as aforesaid the owner shall be deemed to have requested the board to prepare a plan and give an estimate of the expense of executing the work in accordance with the plan so prepared.
- (5) The expense of preparing any plan or giving any estimate as aforesaid shall be fixed by the board, and shall be borne by the owner, and shall be paid by the owner upon being notified that the board has prepared such plan or made such estimate.

71 Board to maintain certain works

Whenever the board carries out the work hereinbefore mentioned, the board shall, at its own expense, keep and maintain the same in good repair for a period of 12 months from the time of completing the work, unless the necessity for such repair is caused by the wilful act or negligence of the owner or occupier.

72 Inspection may be made and alterations ordered

The board may cause the work hereinbefore mentioned to be inspected while in progress, and from time to time during its execution an authorised officer may, in writing, order such reasonable alterations therein or additions thereto as to such officer seem necessary.

73 Drainage of group of premises

- (1) If it appears to the board that a group or block of premises, whether contiguous, adjacent, detached, or semidetached, should be drained in combination, and a sewer of sufficient size already exists, or is about to be constructed within a reasonable distance not exceeding 300ft (which shall be prescribed by the board) of any part of such group or block, the board may order that such group or block shall be drained by a combined operation.
- (2) Upon notices being given by the board to the owners of such premises that provision has been made for carrying off the sewage of each such premises, then each such premises shall be deemed to be seweraged premises within the meaning of this

Act, and this Act shall apply to such premises in the same manner as if the same comprised or was adjacent to land or abutted on a road in which a sewer of the board had been laid.

74 Construction of private drains

- (1) No person shall connect any drain with any sewer of the board without the previous approval in writing of the board.
- (1A) Any person may, with such approval, at the person's own expense, connect any drain with any sewer of the board, or any part thereof, which is so far completed as to be ready for use.
- (1B) However, such drain is of such size, materials, and other conditions, and is connected with such sewer and ventilated in such manner and form in all respects, as the board directs.
- (1C) Any person who contravenes subsections (1) to (1B) shall liable to a penalty not exceeding \$100; and the board may, at the expense of the offender, cut off the connection between such drain and the sewer, or, if it sees fit, execute the necessary works for making the said drain conformable to its directions.

Seven days notice to be given

- (2) Every person intending to connect any drain with a sewer of the board shall, 7 clear days before commencing the work, make written application to the board, accompanied by a plan showing such particulars as are required by any by-law or resolution of the board.
- (2A) No such work shall be commenced until the approval in writing of the board has been given.
- (2B) No such work shall be proceeded with or executed except under the immediate direction of an authorised officer.

Abandonment, alteration etc. of design for approved drain

- (3) When it is desired by any person to abandon either wholly or in part, or to alter, any design for a drain previously approved by the board as herein provided, notice in writing of such desire shall be given by the person to the board, accompanied

by a plan showing the nature of the abandonment or alteration desired.

- (3A) No such abandonment or alteration of such design shall be made without the previous approval in writing of the board.
- (3B) No person shall abandon wholly or in part, or alter in construction, any drain approved by the board without the previous approval in writing of the board.

If drain not constructed within 12 months, fresh approval to be applied

- (4) If any drain approved by the board as hereinbefore provided is not constructed within 12 months from the date of such approval, the works for the construction of such drain shall not be executed without a fresh written approval of the board, to be applied for and obtained in manner hereinbefore provided with respect to the original approval.

Board may do the work

- (5) The board may agree with the owner of any land that any drain required to be made or altered by such owner shall be made or altered by the board, and the cost as certified by an authorised officer shall be repaid to the board by the owner so agreeing.
- (6) For the purposes of this section—
person or *owner* shall include a statutory corporation holding land on behalf of the Crown, and any local government, and any public or private corporation.

75 Cesspools etc. to be closed

The board may give notice to the owner of any sewered premises to disinfect, empty, cleanse, fill in, and close, to the satisfaction of the board, all cesspools and septic tanks used in connection with such premises.

76 Drains etc. to be cleansed

- (1) Every drain which communicates with any sewer of the board, and all drainage apparatus and sanitary conveniences

connected therewith, shall from time to time be repaired and cleansed under the inspection and direction of an authorised officer at the expense of the occupier of the land drained.

- (2) When, in the opinion of such officer, any of such works require repairing or cleansing, the officer may give notice in writing to the occupier, requiring the occupier to do what may be necessary to effect such repair or cleansing within such time as is specified in such notice, or to request the board in writing within such time as is specified in such notice, to do such work at the occupier's expense.
- (3) Nothing in this section shall be construed to affect the rights or liabilities of occupiers and owners as between themselves with respect to the renewal or repair of drains, drainage apparatus, or sanitary conveniences, or the cleansing thereof; and in the absence of any agreement to the contrary, where any occupier incurs or pays any expense under this section with respect to any of these things, and such expense has been occasioned by reason of any structural defect in such drain, drainage apparatus, or sanitary convenience, such occupier shall be entitled to recover the amount thereof from the owner as a debt, and, in addition to any other remedy, may deduct such amount from any rent accrued or accruing due by the occupier to the owner.

77 Filling up low-lying land

Where any land which is sewered premises within the meaning of this Act is so low-lying as not to admit of being drained by gravitation into a sewer, the board may give notice to the owner or occupier or both of such persons to fill up such land within a time limited by the notice, so that the same may be so drained.

78 New buildings to have drains etc. approved by board

- (1) It shall not be lawful upon any sewered premises to erect any building or to rebuild any building which has been pulled down to or below the floor commonly called the ground floor (*the lowest floor*), or to occupy any building so newly built or rebuilt unless the prescribed drain, drainage apparatus, and

sanitary conveniences are constructed and provided to the satisfaction of the board.

- (2) Such drain, drainage apparatus, and sanitary conveniences shall be constructed of such materials of such size and at such level and with such fall as the board directs, and such drain shall lead from such building, or the intended site of such building, to a sewer of the board.
- (3) Whenever any such building is rebuilt, the level of the lowest floor thereof shall be raised sufficiently to allow of the construction of the prescribed drain and drainage apparatus; and for that purpose the levels shall be taken and determined under the direction of an authorised officer.
- (4) Any person who causes any building to be erected or rebuilt, or any drain to be constructed, in contravention of this section shall be liable to a penalty not exceeding \$100.

79 Restriction on right of lessee to remove buildings

Where, under a lease, a lessee has the right to remove buildings at the end of the lessee's term, the lessee shall not be entitled to remove the same or any part thereof, unless—

- (a) the lessee first pays to the lessor or to the board all the expense and interest paid by or payable under this Act by the lessor in respect of any works constructed by or at the cost of such lessor for the purpose of the buildings so removed; or
- (b) the removal of the buildings, or such portion thereof as is removed, is effected without injury to such works.

Part 6 Water and sewerage fund

80 Revenue, how applied

- (1) All moneys received or recovered by or on behalf of the board shall be carried to the account of a fund to be called the water supply and sewerage fund, and such fund shall be applied—

- (a) in the payment of any instalments due in respect of any loan advanced or deemed to have been advanced by the Treasurer under this Act;
 - (b) in the construction, maintenance, renewal, management, and control of the works, including all preliminary and incidental expenses, and in the conduct of the business of the board, and otherwise for the purposes of this Act, including any sum due under an agreement lawfully made for the purposes of this Act and any sum recovered against the board by process of law and any sum which by any order made or purporting to be made under this Act the board is directed to pay by way of compensation, damages, costs, penalties, or otherwise.
- (2) Any unexpended balance may be applied, if the Treasurer so permits, in reduction of any sums owing to the Treasurer under this Act.

Part 7 Loans

82 Future loans

- (1) Subject to this Act, the Treasurer may from time to time advance to the board out of any moneys appropriated by Parliament for that purpose such sums of money on loan as are required for the carrying out or construction of any works which under this Act the board is or may be authorised to carry out or construct.
- (2) Every such loan shall be for a period of 50 years from the date of the first advance in respect thereof, and shall bear interest at the rate of 8% per annum, and shall be liquidated by the payment to the Treasurer by the board on 1 January and July, respectively, in every year of a sum equal to \$4.66 for every \$200 of the said loan, and such sums shall continue to be payable until the total amount of the said loan together with the interest accruing thereon have been so paid.
- (3) In each case the loan shall be advanced by instalments as the works are constructed to the satisfaction of the Treasurer.

83 Adjustments by Treasurer

Notwithstanding anything in this Act contained, the Treasurer may, from time to time—

- (a) make any adjustment which the Treasurer considers necessary to be made with respect to the term or terms of any loan or loans to the board, or the calculation of interest thereon, or with respect to any other matter requiring adjustment;

Prepayments of loan moneys

- (b) permit the board to pay off the whole or any portion of the moneys advanced at any time before they become due, and in such case the board shall be entitled to a proportionate rebate of interest to be adjusted by the Treasurer.

84 Half-yearly statement of arrears to be published

- (1) In the months of February and August respectively in every year, the Treasurer shall cause to be published in the gazette a statement showing, with respect to the board, the amount of money which is then overdue and in arrear, and also the total of the principal sum then remaining unpaid.

Power to enforce the payment of arrears

- (2) If thereafter on 30 April or 31 October respectively any part of such money so overdue and in arrear remains unpaid, the Treasurer may, by notification in the gazette, appoint a receiver to collect on the Treasurer's behalf and pay to the Treasury all or any moneys from time to time due and owing to the board to the amount stated in such notification.
- (3) Thereupon such receiver shall, from the date stated in such notification, until the amount aforesaid has been collected, be the only person legally entitled to receive the revenues of the board, and shall have all the powers of the board with respect to the levy, collection, and recovery of rates and other moneys, and shall be deemed for the purposes of this section to be a public accountant within the meaning of the *Audit Act 1874* or any Act in substitution for that Act.

85 Board may obtain bank overdraft

For the accommodation of the board, it may obtain advances by overdraft of current account in any bank or banks upon the credit of the water and sewerage fund, but so that the principal moneys owing on overdraft do not at any time exceed such amount as the Governor in Council may fix from time to time.

85A Application to sell debentures

- (1) The board may make application to the Governor in Council for permission to borrow money for the purposes of this Act by the sale of debentures or the issue of inscribed stock, and the Governor in Council may grant such permission.

Issue of debentures

- (2) Every such permission shall be signified by an order in council published in the gazette, and such order in council shall declare the amount that may be so borrowed, the purposes for which the same shall be borrowed, the currency of the debentures or inscribed stock, and the rate of interest payable thereon.
- (2A) Moreover, any such permission may be granted subject to the condition of providing a proper sinking fund, or subject to the condition that a proportion of the principal money shall be repayable at stated intervals during the currency of the debentures or inscribed stock, and to such other conditions as the Governor in Council may impose.

Application of moneys

- (3) The moneys so raised by the sale of debentures or the issue of inscribed stock, or such portion thereof as may be found necessary for the purpose, shall be expended for the purposes declared in the order in council, and in the proportions (if any) therein specified and not otherwise.

85B Debentures to be under seal

- (1) Subject to this Act, debentures issued under the authority section 85A shall be issued in such series, at such time, and in such manner as the board may decide, and shall be a charge

upon all the rates and revenues of the board howsoever arising, subject to any prior debentures or inscribed stock issued under this Act prior to 1 October 1924.

- (1A) However, as between themselves debentures and inscribed stock issued under this Act on or after 1 October 1924, shall rank *pari passu* so that no debentures or stock in any such issue shall have priority over any debentures or stock in any other such issue.
- (1B) Such debentures shall bear interest at the rate prescribed in the order in council.
- (1C) Every such debenture when sealed and signed or signed as prescribed shall be deemed to have been duly issued, and the holder thereof shall not be bound to inquire whether such issue was in fact duly authorised.
- (1D) Debentures so issued after 1 October 1924, shall be styled Brisbane Water Supply and Sewerage Debentures.

Time and place of payment

- (2) Every such debenture shall specify the time when or within which the principal shall be payable and the place where the principal and interest shall be payable, and shall be in the form and shall be sealed and signed or signed as prescribed by the Governor in Council, and may have annexed thereto for every payment to grow due thereon a coupon.
- (2A) Every such debenture and coupon (if any), unless otherwise authorised by the Governor in Council, shall be transferable by delivery.

Debentures may be sold in Queensland or elsewhere

- (3) The board may authorise the sale or disposal of any such debentures in Queensland, or in places beyond Queensland, and may appoint an agent or agents to negotiate such sale or disposal.

Payment of debentures and interest

- (4) The holder of any such debenture shall be entitled to receive payment from the board of the principal sum named therein (and, if interest coupons are not annexed, interest in terms of the debenture) upon presentation of such debenture, on or

after the due date thereof, at the place where the same is expressed to be made payable.

- (4A) And the holder of any coupon originally annexed to a debenture, and whether separated therefrom or not, shall be entitled to receive payment in like manner of the interest mentioned in such coupon upon presentation of the same at the place where, and on or after the date when, interest is payable.

Provisions on default of payment

- (5) If default is made by the board in making any payment, whether of principal or interest (or of interest and principal, as the case may be), to the holder of any debenture or coupon, the following provisions shall take effect—

- (a) the holder of such debenture or coupon shall be entitled to make application to and procure all necessary orders and directions from the Supreme Court for the appointment of a receiver, and such court shall have power to make all such orders for the appointment of a receiver, or for the receiver's removal and the appointment of another in the receiver's place, as may be necessary, and to make any orders and give any directions which such court may think proper.

And such receiver shall be deemed to be an officer of such court;

- (b) subject to this Act, the receiver shall have power to make, levy, and collect all rates and other moneys authorised to be made, levied, or collected by the board, and shall be entitled to receive all rates and revenues whatsoever payable to the board; and for such purposes such receiver shall be deemed to be the board, and may exercise all the powers thereof;
- (c) the receiver shall be entitled to such commission, payable out of the revenues of the board, as remuneration for the receiver's services, as such court may appoint;
- (d) the receiver shall, subject to any order of such court, pay over all moneys received by the receiver to such holder, or to and among the holders of debentures or coupons of

the same series as the debenture held by such holder, or to and among the holders of debentures or coupons or the registered holders of inscribed stock generally, in such order of priority or otherwise and in such proportions as the court may think fit; and, if there is any balance in hand over and above the amount due and payable to the receiver under this Act, the receiver shall pay such balance to the board.

85C Loans by the issue of inscribed stock

- (1) Where permission has been obtained from the Governor in Council to borrow money by the issue of inscribed stock, the board may raise the whole or any portion of such sums by the issue of inscribed stock in Queensland or elsewhere.
- (2) Inscribed stock so issued shall be styled Brisbane Water Supply and Sewerage Inscribed Stock.

A charge on revenues of board

- (3) Subject to this Act, such inscribed stock shall be issued at such time and in such manner as the board may decide, and shall be a charge upon all the rates and revenues of the board howsoever arising, subject to any prior inscribed stock or debentures issued under this Act prior to 1 October 1924.
- (3A) However, as between themselves inscribed stock and debentures issued under this Act on or after 1 October 1924, shall rank *pari passu* so that no stock or debentures in any such issue shall have priority over any stock or debentures in any other such issue.

Loan when to be repaid

- (4) All sums borrowed by the issue of such inscribed stock shall be repayable on the date or within the time mentioned in the said order in council.

Agreements

- (5) The board, with the approval of the Governor in Council, is hereby empowered from time to time to enter into any agreement with any bank carrying on business in Queensland

or elsewhere having for its object the carrying into effect of any of the provisions of this section.

Regulations

- (6) The board, with the approval of the Governor in Council, may from time to time make regulations for—
- (a) the inscription and issue of Brisbane Water Supply and Sewerage Inscribed Stock;
 - (b) regulating transfers of such inscribed stock;
 - (c) paying interest on such inscribed stock;
 - (d) issuing stock certificates and, as often as occasion requires, reinscribing stock and reissuing such certificates;
 - (e) conducting generally all business connected with such stock.
- (6A) All such regulations, on being published in the gazette, shall be valid in law.

Provisions on default of payment

- (7) If default is made by the board in making any payment, whether of principal or interest (or of principal and interest, as the case may be), to the registered holder of any such inscribed stock, the following provisions shall take effect—
- (a) such holder shall be entitled to make application to and procure all necessary orders and directions from the Supreme Court for the appointment of a receiver, and such court shall have power to make all such orders for the appointment of a receiver, or for the receiver's removal and the appointment of another in the receiver's place, as may be necessary, and to make any orders and give any directions which such court may think proper.
And such receiver shall be deemed to be an officer of such court;
 - (b) subject to this Act, the receiver shall have power to make, levy, and collect all rates and other moneys authorised to be made, levied, or collected by the board, and shall be entitled to receive all rates and revenues

whatsoever payable to the board; and for such purposes such receiver shall be deemed to be the board, and may exercise all the powers thereof;

- (c) the receiver shall be entitled to such commission, payable out of the revenues of the board, as remuneration for the receiver's services, as such court may appoint;
- (d) the receiver shall, subject to any order of such court, pay over all moneys received by the receiver to such holder, or to and among the registered holders of inscribed stock or debenture holders generally, in such order of priority or otherwise and in such proportions as the court may think fit; and, if there is any balance in hand over and above the amount due and payable to the receiver under this Act, the receiver shall pay such balance to the board.

85D Debentures and stock take priority over indebtedness to Treasurer

Notwithstanding anything in this Act contained, debentures and inscribed stock issued under this Act, whether before or on or after 1 October 1924, shall be a charge upon all the rates and revenues of the board, howsoever arising, in priority to any claims or demands of the Treasurer in respect of any loan or advance by the Treasurer to the board under section 81 or section 82.

Part 8 Rates

86 Power to levy rates

The board may make and levy water rates and sewerage rates.

Water rates

87 Lands subject to water rates when main laid before this Act

- (1) Water rates may be made and levied in respect of all lands, whether actually occupied or not, which abut upon or have direct access to or from any road in the district, in which, before the commencement of this Act, a main pipe has been laid down from which the board is prepared to supply water to the lands, and which lands are within 300ft of such main pipe.

Water rates to be payable when main laid down and notice given

- (2) When a main pipe is laid down in a road after the commencement of this Act, the board shall publish in some newspaper a notice that such main pipe has been so laid down, and that the board is prepared to supply water to the lands abutting upon or having direct access to or from such road and which are within 300ft of the main pipe; and after the expiration of 14 days from such publication water rates may be made in respect of such lands notwithstanding that connections with such main pipe are not yet laid in such lands.

Rates leviable on all property

- (3) Water rates may be made and levied in respect of all such lands as aforesaid, whether the land is rateable land under the Local Government Act or not.

88 Basis of water rating

- (1) The board shall define by by-laws the basis upon which water rates shall be assessed.
- (2) However—
 - (a) one basis may be fixed in respect of some lands, and another basis may be fixed in respect of other lands, but the amount of rate in respect of vacant land shall be less than the amount of rate in respect of land which is actually occupied;

- (b) in respect of land which is not rateable under the Local Government Act, the basis shall always be the total superficial area of the floors measured externally in the buildings (if any) erected thereon; the rate may nevertheless vary in respect of different classes of such land, and the proportion of the rate to such superficial area need not be the same as in the case of lands which are rateable under the Local Government Act and are assessed on that basis;
- (c) where a rate is assessed on the basis of the total superficial area of the floors measured as aforesaid in the buildings erected on the land—the by-laws may provide for a reduction of the rate in respect of any excess beyond certain specified areas;
- (d) the by-laws may, in respect of any land, fix a minimum amount of rate which shall be payable in respect of such land, irrespective of the basis on which the rate is assessed.

Sewerage rates

89 Sewerage rates

- (1) Sewerage rates may be made and levied in respect of all lands, whether actually occupied or not, which are sewered premises within the meaning of this Act, although the lands are not actually connected with a sewer.
- (2) Sewerage rates may be made and levied in respect of all such lands as aforesaid, whether the land is rateable land under the Local Government Act or not.

90 Basis of sewerage rating

- (1) The board shall define by by-laws the basis upon which sewerage rates shall be assessed.
- (2) However—
 - (a) one basis may be fixed in respect of some lands and another basis may be fixed in respect of other lands, but

the amount of rate in respect of vacant land shall be less than the amount of rate in respect of land which is actually occupied;

- (b) in respect of land which is not rateable under the Local Government Act the basis shall always be the uses to which the buildings (if any) erected on the land are put;
- (c) the by-laws made, in respect of any land which is rateable under the Local Government Act, fix a minimum amount of rate which shall be payable in respect of such land, irrespective of the basis on which the rate is assessed.

Assessment of rateable value

91 Rateable land

- (1) When rates are assessed in proportion to the value of the land, the value for the purposes of this Act shall be the value as ascertained by the valuations of the local government within whose areas the lands are situated.

Assessment to be compiled from rate-books

- (2) The board shall, accordingly, as early as may be in each year, from the valuations for the preceding year of the local government concerned, compile a valuation list for the purposes of this Act of the value of all lands which are rateable under this Act and the rates in respect of which are to be assessed in proportion to the value of the land; and notice of the making of the list shall be forthwith published in the gazette and in some newspaper.

How long in force

- (3) Immediately upon such publication the valuation shall be deemed to have been in force from 1 January then last past, and shall continue and be in force until 31 December next following.

Book

- (4) The valuation shall be written in a book prepared for the purpose.

Board to have access to local rate-books

- (5) An authorised officer shall be entitled as of right, at all reasonable times, to inspect free of charge all valuations, lists, and rate-books then in use relating to any such land and all documents relating thereto, and may, free of charge, make and take copies of or extracts from them.
- (6) All persons having the custody of such valuations, lists, or rate-books, or documents shall, at all reasonable times and without fee, afford to all such officers free access to such valuations, lists, rate-books, and documents.

Notice of rates—Appeal**92 Particulars of rates to be delivered to owner or occupier**

Forthwith after a rate has been made, the board shall serve on each owner or occupier of land who is liable to pay such rate a notice containing particulars of the rate made and to be collected in respect of such land, the time allowed for paying the rate, and the consequence of not paying the same within such time.

93 Appeal for error in amount of rate

- (1) If any person thinks himself or herself aggrieved by the amount of any rate of which notice is served on him or her, the person may, at any time within 1 month after receiving the notice, appeal against the rate to the Magistrates Court held at North Brisbane; but no such appeal shall be entertained unless at least 7 days notice thereof in writing is given by the aggrieved party to the board.
- (2) At the sessions for which the notice is given, or any adjournment thereof, the justices present shall hear and determine all objections to the rate on the ground of error in the amount, but no other objection, and shall have power to

amend the amount of the rate, and their decision shall be final upon all questions of fact determined by them.

Rate-books

94 Form of *rate-book*—sch 5, form 4

- (1) Every rate shall be fairly transcribed in a book (the *rate-book*), to be kept for that purpose, which shall be in schedule 5, form 4, or as near thereto as the circumstances of the case will permit or with such modifications thereof as may be approved by the auditor-general.
- (2) Every such rate-book shall contain an account of every particular set forth at the head of the respective columns so far as they can be ascertained and are applicable, and shall be signed by the president and secretary.
- (3) The rate-book shall be open to inspection.

95 Rate-book may be amended by the board

- (1) The board may from time to time amend any rate-book by inserting therein the name of any person claiming and entitled or liable to have the person's name inserted therein as owner or occupier or by inserting the name of any person who ought to have been rated, or by striking out the name of any person who ought not to have been rated, or by raising or reducing the sum at which any person has been rated, if such person has been underrated or overrated, or by making such other amendments as will make the rate conformable to this Act.
- (2) No such amendment shall be held to avoid the rate.
- (3) But no amendment in a rate-book shall be valid unless it is authorised by the board.
- (4) The date of such authorisation shall be recorded in the rate-book.
- (5) However—
 - (a) every person aggrieved by any such amendment shall have the same right of appeal therefrom as the person

has under this Act with respect to rates but the amount originally demanded shall be payable within 30 days from the date of the original demand therefor; and

- (b) every person with respect to whom the rate is amended shall be entitled to receive at least 30 days notice of such amendment before the rate shall be payable by the person.

Payment of rates

96 Rates etc. when payable

- (1) Rates shall be payable in respect of the period which begins on the first day of the month next following the day on which they first become payable, as hereinbefore provided.
- (2) The first payment shall be made in respect of the period between that day and 30 June or 31 December next following.
- (3) Thereafter the rates shall be payable half-yearly in advance on every 1 January and 1 July, according to the scale in force at the time when such payments respectively fall due.

97 When owner to pay rates and when occupier

- (1) The owner shall be liable to pay all rates in respect of vacant land.
- (1A) In other cases the owner or the occupier, as required by the board, shall pay the rates.
- (1B) In other cases the occupier shall pay the rates.
- (2) The owner and occupier of any occupied land, or either of them, shall, when required so to do by an authorised officer, furnish a return truly stating the amount of the annual rental value of such land.
- (3) But this section shall not invalidate or affect any contract between owner and occupier solely as between themselves under which other provision is made for payment of rates by an owner or occupier.

98 When several premises supplied by one pipe, each to pay

When premises in the separate occupation of several persons are supplied with water by one common pipe or set of fittings, whether for water supply or for sewage purposes, the several owners or occupiers of such premises shall be liable to the payment of the same rates as they would have been liable to if each had received the supply from a separate pipe or fittings.

99 Remedies against tenant where owner liable, and his or her remedies over

- (1) When rates for the payment of which the owner is liable are in arrear, the board may give notice in writing to the occupier (if any) to pay the rates, and the occupier shall thereupon become liable to pay the same, and the board shall have and may exercise against the occupier all the remedies which it has against an occupier who is liable for the payment of rates in the first instance.
- (2) When the rates for which the owner is liable are required from and paid by the occupier, the occupier may set off the amount so paid against any rent due from the occupier to the owner.
- (2A) If when the rates are so paid no rent is due, or if the amount of the rates so paid exceeds the amount of rent due, the occupier may either set off the amount so paid or the amount of the excess against accruing rent or recover it or part of it by action as for money paid, with full costs as between solicitor and client.
- (2B) But if the goods of the occupier have been subjected to distress and sale for the satisfaction of the rates, then the occupier may recover from the owner double the amount of the appraised value of the occupier's goods so distrained and sold, with such costs as aforesaid.
- (3) A tenant who pays rates for a period extending beyond the tenant's term shall be entitled to recover from his or her landlord the amount so paid, with such costs as aforesaid.
- (4) The receipt of the board for such rates shall be a discharge of the rent and conclusive evidence of the payment thereof to the amount specified in the receipt.

Recovery of rates etc.

100 Recovery of rates

- (1) Money due for rates shall be a debt due to the board, and payment thereof may be recovered by summary proceedings before 2 justices on the complaint of the president or secretary, or by action in any court of competent jurisdiction.

From the owner or occupier for the time being

- (2) Subject to this Act, money due for rates shall be a debt due by the owner or occupier of the land for the time being, notwithstanding that the owner or occupier was not the owner or occupier at the time when the rates became due, and shall also be a debt due by the person primarily liable to pay the same under this Act.

101 Timber may be seized for rates in arrear

When rates due in respect of any vacant land are unpaid and in arrear, any timber lying thereon may be distrained and sold, and for that purpose may be removed.

102 Rates to be apportioned on the occupier etc. quitting

- (1) When an occupier or owner ceases to be the occupier or owner of the land in respect whereof a rate is made before the end of the period in respect of which the rate was made as between the outgoing and the incoming occupiers or owners, the outgoing occupier or owner shall be liable to pay a portion only of the rate payable for the whole of such period proportionate to the time during which he or she continued to be the occupier or owner, and the incoming occupier or owner shall be liable to pay a portion of the rate in proportion to the time during which he or she is the occupier or owner.
- (2) But the rate made in respect of the land shall continue in force, and payment of it may be enforced against the occupier or owner for the time being as if no change had taken place in the occupation or ownership.

Notice of transfer of land or subdivision

- (3) Whenever any person sells or transfers any land within the district, the person shall give notice in writing of such sale to the board, specifying the name and address of the purchaser.
- (4) Whenever a person who is the owner of rateable land within the district subdivides the same, the person shall forthwith give notice in writing, accompanied with a plan of subdivision, to the board; and whenever any such person sells or transfers any such subdivided land, the person shall give like notice, specifying the name and address of the purchaser.
- (5) Any person liable for rates under this Act who fails to give notice as aforesaid shall continue to be liable for all sums accruing by way of rates upon such land, in the same manner as if the person were still the owner thereof.

103 Persons liable may be resorted to in succession

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

104 Lands may be let when rates are in arrear—sch 5, form 7

- (1) When rates or other moneys due to the board under this Act in respect of any land are in arrear for a period of 4 years, the board may cause to be published 3 times in some newspaper a notice in schedule 5, form 7, or to the like effect.
- (2) If, after 6 months from the last publication of the notice, any part of the rates or other moneys due at the time of the first publication thereof is still unpaid, the board may take possession of such land and let it from year to year, or for any term not exceeding 7 years, and may receive the rents and profits and apply them towards the payment of the rates and any other moneys as aforesaid, and costs and expenses, and the surplus (if any) shall be paid to the local government of the area in which the land is situated towards the discharge of any rates (including any interest) due or accruing due on the land under the Local Government Act, and the balance (if any) shall be held for the owner of the land.

- (3) Land so taken possession of by the board shall become and continue to be rateable land within the meaning and for the purposes of the Local Government Act.

105 Recovery of rates charged on land sold by local government

- (1) Whenever any land has been sold in pursuance of the Local Government Act for the non-payment of local rates, the president may certify in writing to the registrar of the District Court that a certain specified amount is due to the board for arrears of rates or other moneys under this Act in respect of such land.
 - (1A) Upon receipt of such certificate the said registrar, after deducting from the proceeds of such sale all expenses incurred therein, shall pay to the local government and the board the amounts due and owing to them respectively, and the balance only (if any) shall belong to the persons who would, if no sale had taken place, be entitled to receive the rents and profits of the land.
 - (1B) However, if the amount remaining in the hands of the registrar, after deduction of expenses as aforesaid, is not sufficient to pay in full the sums so owing to the local government and the board, the said amount shall be divided between the local government and the board in proportion to the sums aforesaid respectively due and owing to them.
- (2) Whenever any land put up for sale in pursuance of the Local Government Act for non-payment of local rates has been bought in by the local government, the president may certify in writing to the mayor of the local government that a specified amount is due to the board for arrears of rates or other moneys under this Act in respect of such land.
- (3) Upon receipt of such certificate the local government shall pay the amount therein certified to be due to the board after allowance of a reasonable proportion of the expenses incurred by the local government in relation to the acquirement of the land; and in case of default as to what amount should be so allowed for expenses the same shall be decided by the registrar of the District Court, whose decision shall be final and binding on the local government and the board.

106 Discount for prompt payment of rates etc.

The board may, if it sees fit, allow to any person liable to pay any rates or any sum due in respect of water supplied by measure or under agreement or otherwise, who pays the whole of such amount within 30 days after notice given to the person of such liability, a percentage by way of discount not exceeding 10%.

106A Exemption from rates in certain cases

Notwithstanding anything contained in this Act, the board is hereby empowered, in any case where it thinks proper to do so, to remit and wholly discharge any rates made and levied under this Act in respect of any land for the payment of which any person is or may be or become liable who is an incapacitated returned soldier or sailor, or is a sufferer from the disease silicosis or anthraco-silicosis, or is in receipt of an invalid or old age pension under any law of the Commonwealth relating to such pensions.

Part 9 Accounts and audit**107 Books of account and inspection by persons interested**

- (1) The board shall cause books to be provided, and true and regular accounts to be entered therein of all moneys received and paid on account of the business of the board, and of the several purposes for which such moneys are received and paid.
- (1A) The board shall cause the cash books to be balanced once at least in every month, and all other books of account at least half-yearly.
- (1B) Such books shall be open to inspection.
- (2) The auditor-general may from time to time make rules with respect to all or any of the following matters—
 - (a) the form and manner in which the books of account of the board shall be kept;

- (b) the banking of moneys received by or on behalf of the board, and the authentication by the bank of deposits made therein by or on behalf of or to the credit of the board;
 - (c) the terms and conditions on which arrears of rates and other moneys no longer recoverable may be written off;
 - (d) the duties of the president, secretary, and auditor as to the verification of rates and other moneys in arrear at the date of the audit;
 - (e) the duties of the auditor in connection with the audit and examination of the accounts;
 - (f) generally, for the execution of this part.
- (3) All such rules shall be published in the gazette, and shall thereupon have the same effect as if they were enacted in this Act, and shall be judicially noticed, and shall not be questioned in any proceedings whatsoever.

108 Appointment of auditors

- (1) The Minister, on the recommendation of the auditor-general, may from time to time appoint a qualified person, to be the auditor for the board.
- (2) The auditor for the board shall be paid out of the water and sewerage fund such remuneration as the Minister on the like recommendation may fix.
- (3) However, when an officer of the audit office is appointed to be the auditor the amount fixed as the officer's remuneration shall be paid by the board to the Treasurer.

109 Yearly audit

- (1) The auditor for the board shall, once at least in every year, examine the accounts of the board.
- (2) The secretary shall produce and lay before the auditor the accounts so balanced as aforesaid, with all vouchers in support of the same, and all books, papers, and writings, in the custody of the board relating thereto.

- (3) If the auditor, after due inquiry, is satisfied that all moneys received have been duly accounted for, and that all payments charged have been duly authorised and made, the auditor shall sign the accounts in token of the auditor's allowance thereof, but if the auditor disapproves of any part of the accounts the auditor may disallow any parts of the accounts so disapproved of.

Person interested may be present

- (4) Any person interested in the accounts, either as a creditor of the board or as an elector, or any person acting on behalf of a creditor or elector, may be present at the audit of the accounts, and may make any objection in writing, signed by such person or the person's agent, to any part of such accounts.

110 Examination and settlement of accounts

- (1) The accounts of the board, so balanced and audited as aforesaid, and either allowed or disallowed by the auditor, together with any written objections made by electors or creditors, shall be produced at the first ordinary meeting of the board after such audit, or at some adjournment thereof, at which meeting any person who has made any such objection may be heard in support of it.
- (2) The accounts shall be then finally examined and settled by the board, and if the same are found just and true they shall be allowed by the board and certified accordingly under the hand of the chairperson at such meeting.
- (3) After such accounts have been so allowed and signed by such chairperson, and also by the auditor as hereinbefore provided, the same shall, subject to the certificate of the auditor-general with respect to any contravention of this Act or any misapplication of money, as hereinafter provided, be final as against all persons whomsoever.

111 Financial statement

- (1) A statement showing the financial position of the board, as at the end of December in each year, shall be prepared by the

secretary and laid before the board at its first meeting in February in the succeeding year.

To be examined and accepted

- (2) Such statement shall contain an account of all moneys received and moneys paid by the board during the preceding year, and a statement of all rates made and contracts entered into during such year, and of all assets and liabilities of the board.

Statement to be printed etc.

- (3) Every such statement shall be signed by the secretary and sealed with the seal of the board, and shall be printed and remain open to inspection and to comparison with the books and documents relating thereto in the possession of the board.

Right to a copy

- (4) The secretary shall, on demand, give to any person a copy of the statement on payment of the sum of 10c therefor.

Person may object

- (5) Any elector or creditor of the board may object in writing to any part of the accounts referred to in the statement.

Statement of accounts to be published

- (6) The board shall in every year cause such statement to be published in the gazette and in some newspaper.

112 Power of auditor to compel discovery

- (1) For the purpose of any examination the auditor may take evidence upon oath (which oath the auditor is hereby empowered to administer), and may by summons, under the auditor's hand, require all such persons as the auditor thinks proper to appear personally before the auditor, at a time and place to be fixed by such summons, and to produce to the auditor all such books and papers as appear necessary for such examination.
- (2) Any person so required who—

- (a) without just excuse, neglects or refuses to comply with the tenour of the summons; or
- (b) having appeared before the auditor, refuses, without just excuse, to be examined on oath concerning the premises or to take such oath; or
- (c) having taken such oath, refuses without just excuse to answer such questions concerning the premises as are put to the person;

shall and may be dealt with by the auditor in the same manner in all respects in which, by any Act in force for the time being relating to justices, persons so refusing or neglecting in cases in which justices have summary jurisdiction may be dealt with.

113 Report of auditor

- (1) The auditor shall forthwith, after the examination of the accounts, report the result to the auditor-general.
- (1A) If it appears to the auditor-general that the said accounts or any part thereof ought to be disallowed as being contrary to this Act, the auditor-general shall certify accordingly to the Treasurer.
- (1B) Such auditor, before any adverse report, shall, by public notice or otherwise, as may seem to the auditor reasonable, appoint a time and place for hearing such explanations as may be offered by or on behalf of the board or any member thereof.
- (1C) If it appears to the auditor-general that any money forming part of the water and sewerage fund, or any other fund under the control of the board, has been wilfully or corruptly misapplied to purposes to which it was not lawfully applicable, or that any member has wilfully, or by culpable negligence, misapplied or connived at or concurred in the misapplication of such money, the auditor-general shall certify accordingly to the Treasurer.
- (2) Within 3 months from the date of such certificate, the Governor in Council may, by order in council, wholly or in part confirm or disallow such certificate.

Auditor-general to hear explanations

- (3) The auditor-general, before certifying as aforesaid, shall give notice that the auditor-general will, personally or by his or her officer, receive and consider such explanations as may be offered by or on behalf of the board or any member thereof, and the auditor-general or his or her officer shall receive and consider such explanations accordingly.
- (4) Every such order of confirmation shall be conclusive evidence for all purposes whatsoever, of the fact of the misapplication of the moneys therein mentioned, of the amount so misapplied, and of the liability of the member or members named in such order as having so misapplied the same or connived at the misapplication thereof to pay the same.

Proceedings on order

- (5) Any sum of money mentioned in any such order as having been so misapplied may be recovered in any court of competent jurisdiction, together with full costs of the action, including costs as between solicitor and client, from any 1 or more of the members mentioned in such order as liable to pay the same, at the suit of the board, or at the suit of any elector or creditor of the board.

Destination of moneys recovered

- (6) Any sum of money so recovered shall be paid into the water and sewerage fund, or other fund from which the amount sued for was improperly taken.

114 Special audit

- (1) The Minister may, at any time, appoint a qualified person as a special auditor to examine the accounts of the board for any period fixed by the Minister.
- (2) In every such case the special auditor so appointed shall have the like powers, duties, and authorities as the auditor appointed for the board under section 108; and the following provisions of this part of this Act, so far as the same are applicable, shall be observed, namely, sections 109 except subsection 1, 112, and 113.

- (3) The costs and expenses of every special audit, including the amount of the remuneration of the special auditor fixed by the Minister, shall be borne by the board.

Part 10 Offences

115 Unqualified member acting

Any person who acts as a member of the board without being duly qualified, or after the person has become disqualified, shall be liable to a penalty not exceeding \$100.

116 Officers exacting or accepting fees

- (1) Every officer or servant employed by the board who—
 - (a) exacts or accepts, on account of anything done by virtue of his or her office, or in relation to any matter to be done under this Act, any fee or reward, other than the salary, wages, or allowance allowed by the board; or
 - (b) is in anywise concerned or interested in any bargain or contract made by the board;

shall be incapable of being afterwards employed by the board for a period of 5 years, and shall forfeit the sum of \$200.

- (2) The board or any elector may sue for such sum by action in any court of competent jurisdiction.
- (3) Any such sum recovered, after payment to the plaintiff of the full costs of the action, including costs as between solicitor and client, shall be paid into the water supply and sewerage fund.

117 Refusing to give up possession of works

Any person having charge of any works, the property of the board, who refuses, on lawful demand, to give up peaceable and quiet possession of the same to any person entitled to possession, shall be liable to a penalty not exceeding \$200.

118 Diverting water, or diminishing supply or injuring it

Any person who, without the authority of the board, and within any water reserve or catchment area under the control of the board or within the district or such lesser area as may be defined by the Governor in Council by order in council—

- (a) takes, diverts, or intercepts water from any stream, watercourse, or source of supply; or
- (b) does any act whereby any such water is or is likely to be diverted or diminished in quantity, or injured in quality or purity;

and does not, on being required by notice from the board, immediately restore everything to the state in which it was before such act, shall be liable to a daily penalty not exceeding \$10 for every day during which the water is taken, diverted, intercepted, diminished, or injured after such notice.

119 Using unauthorised fittings etc.

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- (1) Any owner or occupier of land supplied with water who—
 - (a) with intent that water may be taken in a manner not authorised, uses in, places upon or attaches to the land any fitting or thing not authorised; or
 - (b) alters, misuses, injures, or, except for the purpose of necessary repair, removes any authorised fitting; or
 - (c) wilfully or negligently causes any fitting, drainage apparatus, or sanitary convenience, used in connection with the water supplied to be out of repair without repairing it within a reasonable time, or to be so used or contrived that the water supplied is or is likely to be wasted, misused, unduly consumed, or contaminated, or so as to allow the return of foul air or any noisome or impure matter into any fitting.

Injury to fittings etc.

- (2) Any person who without the authority of the board (the proof of which shall be upon the person)—

- (a) wilfully or carelessly breaks, injures, opens, or shuts, or otherwise interferes with, any authorised fitting or any work belonging to the board; or
- (b) flushes or draws off the water from the reservoirs or other works of the board; or
- (c) does any other wilful act whereby such water is wasted; or
- (d) not being entitled to a supply of water, wrongfully takes water from any source of supply; or
- (e) uses or consumes, in contravention of this Act, any water belonging to the board.

Wrongful use of water

- (3) Any person who—
- (a) not being entitled to a supply of water for purposes other than domestic purposes, uses water supplied for purposes other than domestic purposes or the extinguishment of fire; or
 - (b) being entitled to a supply of water for purposes other than domestic purposes, uses water supplied for purposes other than those authorised or the extinguishment of fire; or
 - (c) being entitled to a supply of water for any purposes, uses water supplied elsewhere than on or in the land to which such water is supplied, save for the extinguishment of fire;

shall be liable to a penalty not exceeding \$20, and in addition to a daily penalty not exceeding \$4 for each day on which the offence is committed after notice by the board.

120 Fouling water

Any person who—

- (a) bathes in or enters any stream, reservoir, or other part of the works, or any water supplying or flowing into the same or any part thereof (including so much of the Brisbane River as extends up stream from the weir

- below the Mount Crosby Pumping Station, but otherwise not including the Brisbane River and its tributaries), or washes in, throws into, or causes to enter therein any person, dog, or other animal; or
- (b) throws or deposits any rubbish, carcass, dust, filth, or any other noisome thing into or in any stream, reservoir, or other part of the works, or any water supplying or flowing into the same or any part thereof, or any source of supply, or into the Brisbane River or any of its tributaries above any dam or reservoir or the site of any pumping station or point of intake, or washes or cleanses in any such water any mineral, or cloth, wool, or leather, or the skin of any animal, or any other thing; or
 - (c) throws or causes to flow or fall into any stream or watercourse within the district any refuse, filth, dirt, grease, decomposed substance, or any poisonous, noxious, offensive, or unwholesome matter; or
 - (d) causes the water of a sink, sewer, drain, engine or boiler, or other filthy or unwholesome water, or any washing or other substance produced in making or supplying gas, or any liquid other than wholesome water, to run or be conveyed into any stream, reservoir, or other part of the works, or any water supplying or flowing into the same or any part thereof, or does any act connected with the making or supplying of gas or otherwise whereby the supply of water to the consumers is or is likely to be contaminated;

shall be liable to a penalty not exceeding \$100, and in addition to a daily penalty not exceeding \$10 for each day on which the offence is committed after notice by the board.

121 Obstructing flow etc.

Every owner or occupier of land intersected or bounded by any stream or watercourse, or through or near to which any channel or drain is cut by the board, who unlawfully obstructs or in any manner unlawfully interferes with the water or flow of water therein, shall be liable to a penalty not exceeding \$100, and in addition to a daily penalty not exceeding \$10 for

each day on which the offence is committed after notice by the board.

122 Tampering with works

Any person who—

- (a) opens any ground so as to uncover or expose any pipe or fitting or drainage apparatus, the property of or under the control of the board, without having given to the board the prescribed notice of the person's intention so to do; or
- (b) wilfully or negligently breaks or injures or opens any pipe or fitting or drainage apparatus, the property of or under the control of the board; or
- (c) unlawfully breaks or tampers with any seal of any private fire service;

shall be liable to a penalty not exceeding \$40.

123 Interfering with works

- (1) Any person who, except by the authority of the board (the proof of which shall be upon the person)—
 - (a) takes up, removes, demolishes, or otherwise interferes with any works of the board; or
 - (b) wilfully damages any work or thing the property of the board, or does any act by which the water supply or sewerage or drainage of the district or any part thereof may be obstructed or injured; or
 - (c) knowingly erects or places any structure or any obstruction, annoyance, or encroachment in, upon, over, or under any main, main pipe, sewer or drain of the board; or
 - (d) obstructs, fills in, or diverts any main, main pipe, sewer or drain of the board;

shall be liable to a penalty not exceeding \$100, and in addition to a daily penalty not exceeding \$10 for each day on which such offence is committed after notice by the board.

- (2) Nothing herein contained shall extend to prevent or impede the maintenance, repair, or renewal of any structure under which a main, main pipe, sewer, or drain has been constructed, but so nevertheless that the same does not injure or obstruct the main, main pipe, sewer, or drain.
- (3) The board may, at the expense of the offender, cause any structure erected in contravention of this section to be altered, pulled down, or otherwise dealt with as it thinks fit.

124 Depositing dirt, chemical refuse etc. into sewers etc.

Any person who—

- (a) sweeps, rakes, or places any house refuse, soil, rubbish, or filth, or any other thing into or in any sewer or drain of the board, or over or contiguous to any grate communicating with any such sewer or drain, or into any dock or inlet communicating with the mouth of any such sewer or drain, or into which any such sewer or drain may discharge its contents, or into the Brisbane River contiguous thereto; or
- (b) turns or causes to enter into any sewer or septic tank of the board or any drain communicating therewith any chemical refuse, or any waste steam, condensing water, heated water, or other liquid (such water or other liquid being of a higher temperature than 110°F), which, either alone or in combination with the sewage, causes a nuisance or is injurious to health, or any trade refuse from any tannery, brewery, chemical works, or other industrial operations which is by the by-laws prohibited from being turned into the works of the board; or
- (c) turns or causes to enter into any sewer of the board, or any drain communicating therewith, any rain water or storm water, or any other matter which, in the opinion of the board, is of such a nature as may injuriously affect such sewer or the sewerage works of the board, or such drain, or endanger the safe working of the same, or may injuriously affect the disposal or treatment of the sewage therefrom; or
- (d) turns or causes to enter, or allows or suffers to be turned or to be caused to be entered, any foul water or other

foul liquid, from any premises connected with the board's sewers, into any open gutter or underground drain, channel, or sewer not connected with such sewers.

However, the entry of such foul water or other foul liquid into the board's sewers is not prohibited by the board;

shall be liable to a penalty not exceeding \$10, and in addition to a daily penalty not exceeding \$4 for each day on which such offence is committed after notice by the board.

125 Offence as to drain

- (1) Any person who, having received permission to connect a drain with any sewer of the board, neglects to repair or cleanse such drain according to the directions of an authorised officer, or wilfully allows any other person not having the permission of the board to use any such drain or any branch into the same, shall be liable to a penalty not exceeding \$40.
- (2) And the board may cut off from its sewer the private drain.

126 Obstructing execution of Act

Except as is herein otherwise provided, any person who without any lawful excuse (the proof whereof shall be upon the person)—

- (a) obstructs, hinders, resists, or in anywise opposes the board, or any member thereof, or any person appointed, employed, or authorised under this Act, or any person appointed by the Governor in Council, or the Minister, in the performance of anything which it or the person is respectively empowered or required to do by this Act; or
- (b) destroys, pulls down, removes, injures, or defaces any board, placard, or notice put up or published by authority of the board; or
- (c) destroys, pulls up, or removes any surveyor's mark, pole, or stake, or defaces or destroys any work fixed, driven, or made for the purpose of any survey, level, or line of any land or work under this Act;

shall be liable to a penalty not exceeding \$40, and in addition to a daily penalty not exceeding \$4 for each day on which any such offence is committed after notice by the board.

127 Not permitting inspection etc.

Any person who—

- (a) having the custody of a valuation list, rate-book, account-book, or other document which an authorised officer is entitled to inspect, wilfully neglects or refuses to permit such officer to inspect the same free of charge, or to make and take free of charge copies or extracts from the same, within 2 days after a demand in writing and such authority has been produced and shown to the person or a copy thereof left at the person's office or usual place of abode; or
- (b) refuses to make any return or furnish any statement to the board or an authorised officer which the person is bound to make or furnish under this Act, or wilfully omits to make or furnish it within 7 days after being so required, or makes or furnishes a false return or statement;

shall be liable to a penalty not exceeding \$40.

128 Entry by owner etc. to execute work

- (1) Any owner and his or her servants, workers, and agents may, for the purpose of complying with any notice or order served or made on him or her in pursuance of this Act in respect of any land or structure, after giving at least 48 hours notice to the occupier thereof, and on production of the notice or order, enter and from time to time without further notice re-enter such land or structure, and do all necessary works and things therein, thereto, or in connection therewith.

Obstruction by occupier

- (2) If the occupier of any land prevents the owner thereof from carrying into effect this Act, any justice to whom application is made in that behalf shall, by order in writing, require such occupier to permit the execution of any works required to be

executed, if the same appear to such justice to be necessary for carrying into effect this Act; and if within 48 hours after the making of the order such occupier fails to comply therewith, the occupier shall be liable to a daily penalty not exceeding \$10.

- (2A) Every such owner shall, after the making of such order, be discharged from any penalties to which the owner had otherwise become liable by reason of the owner's default in carrying into effect this Act.
- (3) Any occupier of any land who, when requested by an authorised officer to state the name of the owner of such land or of the person receiving or authorised to receive the rent, refuses or wilfully omits to disclose or wilfully misstates the name shall be liable to a penalty not exceeding \$10.

129 Non-compliance with orders of the board

Any person who does not comply with the order of the board or an authorised officer to execute any work which under this Act the board or any such officer is authorised to direct shall be liable to a penalty not exceeding \$40, and in addition to a daily penalty not exceeding \$4 for every day on which such non-compliance continues after conviction.

130 Violation of Act an offence

Where anything is by this Act, or by any direction, order, or notice made under the authority of this Act, directed to be done or forbidden to be done, or where any authority is given to the board or any of its officers to direct or to forbid anything to be done, and such act so directed to be done remains undone, or such act so forbidden to be done is done, in every such case the person making default as to such direction and prohibition respectively shall be guilty of an offence against this Act.

131 General penalty

Any person guilty of an offence against this Act for which no penalty is specifically provided shall be liable to a penalty not exceeding \$40 and to a daily penalty not exceeding \$4 for

each day on which such offence is continued after notice by the board.

132 Penalties recovered summarily

All penalties and forfeitures incurred under this Act may be recovered in a summary way, before any 2 justices, on the complaint of the secretary or an authorised officer, or, if the board or any of its members or officers, or any person authorised by it, is the offender, on the complaint of the party aggrieved.

133 Who are liable for offences

Every penalty imposed by this Act in respect of any offence may be recovered from the person actually committing the offence, or from the person in whose employment the person is and on whose behalf or for whose benefit the person is acting, or (where under this Act it is the duty of any person to abstain from any act, or where any person has lawfully the authority to prevent any act or default) from the person wilfully permitting any act or default, or from all or some of such persons; and for the purposes of this Act all such persons shall be deemed to have done the act or made the omission complained of or caused the same to be done or made.

134 Saving of other proceedings

- (1) Any penalty imposed upon or recovered from any person under this Act shall be without prejudice to the right of the board to recover from such person—
 - (a) any sum for damage sustained by it through the person's act or default;
 - (b) the expenses incurred by it in remedying any such damage;
 - (c) the value of any water wasted, misused, contaminated, unduly consumed, or unlawfully diverted, intercepted, or taken by the person.
- (1A) All such sums may, at the option of the board or its prosecuting officer, be recovered in the same proceeding by

which the penalty is sought to be recovered, or in another proceeding by complaint or action.

- (2) The payment of any such penalty shall not bar or affect the right of the board to bring any action or to take any proceeding against such person or any other person liable.
- (3) The board may, if in its opinion summary proceedings would afford an inadequate remedy, cause any proceedings to be taken against any person in the Supreme Court to enforce the abatement or prohibition of any nuisance or to enforce compliance with any order made under this Act, or for the recovery of any penalties or expenses from or for the punishment of any persons offending against this Act.
- (4) And generally the provisions of this Act relating to nuisances by whomsoever to be observed shall be deemed to be in addition to and not to abridge or affect any right, remedy, or proceeding under any other Act or at common law.

Part 11 General provisions

Division 1 General

136 Orders in council

- (1) The Governor in Council may, from time to time, make all such orders in council as the Governor in Council thinks fit for the further or more effectually or particularly carrying out the objects and purposes of this Act, and for facilitating proof of any document or matter, and for extending periods of time, and for curing irregularities and substituting new for lost or destroyed documents, and for prescribing the powers and duties of officers of the State appointed for the purposes of this Act.
- (2) Such orders may be of general application, or refer to certain classes of cases, or to any particular cases.

- (3) The generality of this section shall not be qualified or affected by any provision of this Act giving power to make orders with regard to any subject matter in such provision specified.
- (4) All orders in council made under this Act, when published in the gazette, shall be of the same force and effect as if contained in this Act, and shall not be questioned in any proceeding whatsoever.
- (5) The Governor in Council may, by another order in council, amend or rescind any order in council made under this Act.
- (5A) No such amendment or rescission shall, however, affect any right, obligation, or liability acquired, accrued, or incurred under any such lastmentioned order in council.
- (6) No misnomer or inaccurate description or omission contained in any such order in council shall in anywise prevent or abridge the operation of this Act with respect to the subject of such description, provided the same is designated so as to be understood.
- (7) No order in council purporting to be made under this Act, and, being within the powers conferred on the Governor in Council, shall be deemed invalid on account of any non-compliance with any of the matters required by this Act as preliminary to the same.

137 Owner where name not known

When the name of an owner of any land is not known to the board, it shall be sufficient for all purposes of this Act to describe the owner by the designation of 'the owner' of the land in question, without stating the owner's name.

137A Free search in office of registrar of titles

Every registrar of titles shall permit the secretary or other authorised officer of the board, free of charge, to make searches of, and to make copies of or extracts from, any books, plans, and documents registered in the registry relating to land situated within the district.

137B Free search in Supreme Court registry

The secretary or other authorised officer of the board shall be entitled at all reasonable times, free of charge, to inspect any record in the office of the registrar of the Supreme Court for the purpose of ascertaining the names of corporations and joint stock companies, of trustees in estates or trusts, and of executors and administrators in estates, and make and take all such copies of or extracts from such record as the secretary or other authorised officer may deem necessary.

138 Continued operation of notices and orders

All notices and orders required under this Act to be served on any owner or occupier shall, if due service thereof has been once made on any owner or occupier, be binding on all persons claiming by, from, or under such owner or occupier to the same extent as if such order or notice had been served on such lastmentioned persons respectively.

139 Remedies for moneys due

- (1) Where water is supplied by measure or under agreement to any land and the owner of such land is not the person supplied with such water, the owner shall nevertheless be liable to pay to the board in respect of such supply the minimum amount (if any) fixed by the board or under such agreement as payable for such supply; and such amount shall be deemed to be a debt due by the owner as a water rate.
- (2) Money due in respect of water supplied by measure or under agreement to any land or in respect of any fittings or drainage apparatus or other chattels supplied by the board to any land, or in respect of works executed by the board on any land, shall, to the extent to which an owner is liable and without prejudice to any other rights of the board, be deemed to be a debt due to the board by the owner of the land for the time being, notwithstanding that the owner was not the owner at the time when the money became due; and shall also be a debt due by the person primarily liable to pay the money under this Act.

- (3) And the board shall, without prejudice to any other proceeding or remedy, be entitled to exercise the same remedies for the recovery of all such money as it may exercise under this Act for the recovery of rates.

140 Board may act for person in default

Whenever by this Act the board is empowered to give to any owner or occupier of land notice requiring the owner or occupier within any specified time to carry out or provide any works, matters, or things on or in connection with the land, and such owner or occupier has not within the limited time complied with such notice (or, if the owner or occupier may request the board to comply therewith on the owner's or occupier's behalf, has not duly made such request), then the board may, subsequently to or in lieu of taking any proceedings against such owner or occupier for such non-compliance, enter upon the land and carry out and provide, on behalf of and at the expense of such owner or occupier, the works, matters, or things in which the owner or occupier has made default.

141 Apportionment of joint liability

When 2 more persons are or may be directed by the board to do or join in doing any act, or to pay or join in paying any sum of money, or when the board may permit 2 or more persons to join in doing any act or paying any sum of money, the board may, if it thinks fit, apportion the matter to be done or the sum of money to be paid between such persons in such manner as the board considers just.

142 Arrangements with Government

Notwithstanding anything contained in any Act, the board shall have power and authority to enter into any contract or arrangement with the State or the Commonwealth for the supply of water or for sewerage works or services, and may receive payment in pursuance thereof.

Division 2 Compensation

143 Compensation in case of damage

Except as by this Act is otherwise provided, if any person sustains any damage by reason of the exercise by or on behalf of the board of any of the powers conferred by this Act, in relation to any matter as to which the person is not personally in default, full compensation shall be made to such person by the board.

144 Limitation of liability

(1) Notwithstanding anything in this Act contained, no action, claim, or proceeding shall be maintained or allowed against the board for or in respect of—

(a) any injury, loss, or damage sustained by any person which is caused directly or indirectly by reason or in consequence of—

(i) the escape of water from any of the board's works, in any case where the escape of such water is not attributable to any neglect or default on the part of the board; or

(ii) the withdrawal into the works or workings of the board or into any drive, tunnel, or other excavation constructed by the board in relation thereto of any surface or subsoil water from any land adjacent to or in the vicinity of any such works, workings, drive, tunnel, or other excavation or the dislocation of the soil or particles of the soil or other material in, upon or under any land adjacent to or in the vicinity of any such works, workings, drive, tunnel, or other excavation consequent upon the withdrawal of any surface or subsoil water.

However, such works, workings, drive, tunnel, or other excavation are and is constructed and maintained in a proper manner and without negligence, and that the construction thereof is proceeded with without undue delay on the part of the board; or

- (b) any injury, loss, damage, or inconvenience sustained by any person during the progress of the construction of any works by or on behalf of the board, and which is caused directly or indirectly by reason or in consequence of—
 - (i) the doing of any work preparatory or ancillary to construction; or
 - (ii) the temporary closure of or obstruction to any road, lane, footpath, gateway, doorway, window, or other opening; or
 - (iii) the temporary placing in or upon any road, lane, footpath, gateway, or doorway of any machinery, structures, material, plant, earth, or spoil, or any construction or other material of any description whatsoever; or
 - (iv) the discharge on to any road, lane, footpath, or gateway of any water; or
 - (v) any noise or vibration.
- (1A) However, the construction of such works is carried out in a proper manner and without negligence, and that the construction thereof is proceeded with without undue delay on the part of the board.
- (1B) In addition, nothing in this section shall be construed to limit the liability of the board to pay compensation for an actual personal injury to any person occasioned by the operations of the board in cases where the board would be so liable if this Act had not been passed.
- (2) For the purposes of this section—

board includes the agents, servants, workers of and contractors under the board.

144A Particulars of claim

- (1) Every claim for compensation made against the board under this Act shall clearly specify the name and address of the complainant, the name and address of the complainant's solicitor (if any), the nature of the injury, loss, or damage complained of and the cause thereof, the total amount of

compensation claimed, and particulars showing how such amount is arrived at, specifying in each case the exact amount claimed in respect of each particular item.

- (1A) The claimant shall also give to the board all such further information and particulars relating to the claim as the board reasonably requires.
- (1B) Except in cases where a claim is amended by leave of the court or a judge, as hereinafter provided, every claim for compensation shall be conclusive against the claimant, and the claimant shall not be entitled to be awarded any compensation in respect of any matter or thing not claimed for in the original claim nor any greater sum in respect of any particular item of damage than the amount originally claimed by the claimant in respect of such item of damage.
- (2) No claim for compensation shall be increased or reduced or otherwise amended without the leave of the court or a judge, and no such leave to amend shall be granted unless it is shown to the satisfaction of the court or judge either that the claimant could not, by the exercise of reasonable care and diligence on the claimant's part, have so formulated the claim in the first instance as to obviate the necessity of amending it, or that additional damage has been sustained by the claimant since the claim was first formulated.
- (3) In the hearing of claims for compensation under this Act, the onus of proving that the damage has been occasioned by reason or in consequence of the operations of the board shall lie on the claimant.

144B Tribunal

- (1) Every claim for compensation not exceeding the sum of \$400 shall be heard and determined by the Magistrates Court as if the matter had been the subject matter of an action in such court, and the decision of such court shall be final unless the Supreme Court or a judge thereof gives leave to appeal therefrom on account of important questions of law involved therein.
- (1A) In such case the appeal shall be by way of rehearing before a judge of the Supreme Court, sitting alone, as if the matter of

the claim had been the subject matter of an action in the Supreme Court.

- (2) Every claim for compensation exceeding \$400 shall be heard and determined in the Supreme Court in the same manner, including the right to a jury and a right of appeal against any judgment or decision of the Supreme Court, as if the matter of such claim had been the subject of an action in that court.
- (3) The Magistrates Court or the Supreme Court, as the case may be, shall be entitled to grant such costs as in the opinion of the court are just and reasonable, but in exercising such discretion the court shall have regard to the reasonableness or otherwise of the amount claimed in the original claim or in any amended claim for compensation, and if the court is of opinion that the amount of the original claim was unreasonable or excessive it may, notwithstanding that the claimant has been awarded a sum of money by way of compensation, direct that the claimant shall pay the whole or part of the costs incurred by the board in resisting such claim, and may direct that the amount of any such costs may be deducted from the amount of compensation moneys payable to the claimant.

Division 3 Powers for execution of Act

145 Entry

- (1) An authorised officer, with such attendants as the authorised officer thinks fit, shall have power, without notice, to enter at all reasonable times and as often as may be deemed necessary upon any road or land for the purpose of generally enforcing and executing this Act; and in particular for—
 - (a) examining whether any of the provisions of this Act or any requisitions of any notice or order thereunder are being complied with or are being contravened; or
 - (b) making any plan or survey or taking levels; or
 - (c) executing, fixing, removing, replacing, renewing, substituting, altering, repairing, cleansing, or examining any work, fitting, drainage apparatus, or sanitary convenience; or

- (d) making any inspection;
and may there carry out the necessary operations.
- (1A) If such admission to any land is refused, any justice, on complaint by such officer (made after reasonable notice in writing of the intention to make it has been given to the occupier), may, by signed order, require the occupier to admit such officer.
- (1B) Any such order made by a justice shall continue in force until the necessary purpose has been completed.
- (1C) Any person who refuses to obey an order of a justice for the admission of such officer shall be liable to a penalty not exceeding \$10 and to a daily penalty not exceeding \$2.
- (2) The provisions of this section shall be in addition to and not in derogation of any powers of entry or for doing any act for any purpose authorised by this Act.

145A Right of entry to prevent interference with watercourse

- (1) The board, by its authorised officers, may, in the exercise of its jurisdiction under this Act over the water in the district or in any water reserve or catchment area under its control, or for the purpose of preventing the improper use or waste of water, enter upon any land and take such measures as may be thought fit for the conservation and regulation of such water and for its preservation from pollution, and for the protection of the bed, banks, channels, and works over or within which it flows or is contained, and may interfere summarily to prevent the undue, excessive, or illegal use, diversion, pollution, or waste of such water or interference with such bed, banks, channels, or works; and it shall not be necessary for the board to obtain an injunction or other order of a court to entitle it to make such entry or to take such measures.

Penalty

- (2) Any person who obstructs, impedes, or interferes with any such officer in entering upon any land or in taking any measures for any of the purposes aforesaid shall be liable to a penalty not exceeding \$100 or to imprisonment for any period not exceeding 3 months.

Board entitled to institute proceedings

- (3) The board shall be entitled to institute and maintain, by any authorised officer, any proceeding in any court of justice, whether such proceeding is for any civil remedy or for the recovery or enforcement of any penalty, against any person or corporation for illegally diverting, taking, or polluting the water in the district or in any water reserve or catchment area under its control, or for unlawfully interfering with the bed, banks, or channels of any river, stream, or watercourse, or any works of the board.
- (4) In such proceedings it shall not be necessary for the board to show that the board or any person has sustained damage by such diversion, taking, pollution, use, wasting, or interference, nor that the board is a riparian owner or otherwise entitled to the use or to the protection of the river, stream, watercourse, works, or water in question.
- (5) But the board shall be entitled to judgment in its favour if it is proved that the water has been illegally diverted or taken or polluted or improperly used or wasted, or that the bed, banks, channels, or works have been unlawfully interfered with.
- (6) And the board shall in the discretion of the court be entitled to the costs and expenses of the proceedings against the defendant.

147 Protection of board and officers from personal liability

No matter or thing done and no contract entered into by the board, and no matter or thing done by any officer of the board, shall, if the matter or thing was done or the contract was entered into bona fide for the purpose of executing this Act, subject any member of the board or any such officer to any personal liability in respect thereof; any expense incurred by any member or officer acting as last aforesaid shall be deemed to be an expense authorised by this Act.

148 Justices may act though interested in certain cases

No justice shall be disabled from acting in any matter arising under this Act by reason only of being a ratepayer, or by reason of being a ratepayer of any local area within the district

or interested in the concerns of the board, or as one of any other class of person liable in common with the others to contribute to or be benefited by any rate or fund out of which any expenses under this Act are to be defrayed but no justice shall be capable of acting in cases in which the justice is a member of the board or of any local government who or whose officer is a party to any litigation.

Division 4 Expenses

149 Board may recover expense of works

- (1) In all cases in which under this Act the board has provided any drain, drainage apparatus, or sanitary convenience pursuant to the requirement of any owner, or performs any work, matter, or thing on behalf of any owner or occupier, the expense thereof, with interest at the rate per centum per annum which the board is required to pay as and by way of interest on any loan for house connection purposes, shall be recoverable from the owner or occupier, as the case may be, after the expiration of 1 month from the time when an authorised officer certifies in writing to the board that the same have been provided or performed and the amount of such expense.

Instalments

- (2) In all cases in which the board has provided any drain, drainage apparatus, or sanitary convenience as aforesaid, the board may, at the request of the owner, upon proof to its satisfaction that the owner is unable to pay the expense thereof otherwise, accept payment of the expense thereof by 20 quarterly instalments, bearing interest on such portion as from time to time remains unpaid at the rate of 10% per annum.
- (2A) Such request shall be made in writing, and signed by the owner, and lodged with the board within 1 month from the time of such owner being notified, in writing, by the board of the amount of such expense.
- (2B) The first quarterly instalment shall be payable immediately on the expiration of the said month.

- (2C) However, the board may at any time extend the time for payment of such expense with interest as aforesaid for any period not exceeding a further 20 quarters and, in such case, the amount of the quarterly instalments payable as herein provided shall be proportionately reduced.
- (2D) Notwithstanding anything contained in this section, the owner may at any time pay to the board such portion as then remains unpaid of such expense, together with interest thereon at the said rate to the date of such payment.

On default whole amount unpaid to become payable

- (3) In the event of any of the instalments or interest not being paid within 14 days after the due date thereof, the whole amount then unpaid of the expense shall, if the board so desires, become due, payable, and recoverable, with interest, as prescribed.

How instalments recoverable

- (4) Payment of any such amount or of any instalment thereof and interest may be recovered in the manner provided by this Act for the recovery of rates.

150 Expenses recoverable in any court

- (1) In addition to any other remedy provided by this Act, expenses recoverable by the board from any person shall be recoverable in any court of competent jurisdiction.

Future owners liable

- (2) Expenses recoverable by the board from any owner of land shall be recoverable, together with interest at the rate of 10% per annum, at any future time from any owner of the land.

Expenses include compensation

- (3) Expenses recoverable by the board in respect of the execution of works for or on behalf of any person shall include the amount of any compensation other than for negligence or misfeasance paid by the board in respect of such works.

151 Powers of trustees

Any trustee being owner of any land may apply any of the funds under the trustee's control in defraying any charges, costs, and expenses necessarily or properly incurred by the trustee under this Act as such owner.

152 Powers of agents

Any agent may deduct from any moneys held by the agent for his or her principal all charges, costs, and expenses necessarily or properly incurred and paid by the agent under this Act as owner within the meaning of this Act of any land for which he or she is the agent of such principal, or the agent may in any court of competent jurisdiction recover from such principal the amount so incurred and paid.

153 Powers of local government

A local government may apply out of its local operating fund all charges, costs, and expenses necessarily and properly incurred by such local government under this Act, whether within or without its area.

154 Expenses to remain charge upon premises

- (1) In addition to any remedy which the board may have against any owner or occupier of land, all charges, costs, and expenses, and every instalment thereof, and interest which by this Act are made payable to the board by the owner, or for which the owner is liable, shall, until payment, be and remain a first charge upon the land in priority to all mortgages, charges, liens, and encumbrances whatsoever, and shall rank *pari passu* with any rate payable to any local government in respect of the land.
- (2) Whenever any such moneys have become a charge as aforesaid upon any land, and are in arrear for 4 years and upwards, it shall be lawful for the board to serve on the owner and to publish for 3 consecutive weeks in 3 consecutive numbers of a newspaper, a notice specifying the land and the moneys charged thereon, and stating that if the same are not paid within 6 months from the first publication of such notice

the board will apply by petition to the Supreme Court for a sale of the land.

- (2A) However, if any proprietor, mortgagee, encumbrancee, lessee, or trustee of any land has previously registered himself or herself as such, by notice in writing sent by registered letter, in respect of any land, in the office of the board (which registration the board shall recognise and record), a like notice shall be served upon him or her.
- (2B) Such record as aforesaid shall be open to inspection by any ratepayer upon payment of a fee of 25c.
- (3) If after 6 months from the first publication of such notice any part of the moneys due to the board at the time of such first publication are still unpaid—
 - (a) the board may let the land or any part thereof from year to year or for any term not exceeding 7 years, and may receive the rents and profits thereof and apply the same towards the payment of all moneys whatsoever from time to time due to the board in respect of the land and the costs and expenses incurred, and hold any surplus in trust for the rightful owner of the land; and also
 - (b) the board may, by petition to the Supreme Court or a judge thereof, apply for a sale of the land or of so much thereof as is necessary to produce the amount so charged together with all sums since accrued due.
- (4) The court or judge, on being satisfied by affidavit or otherwise that 6 months notice of such petition has been served on the owner, and that the amount claimed in the notice is still due and was in arrear at the time of the first publication of such notice, and that all things required by this Act to be done by the board have been done, shall order the sale of the said land or so much thereof as is sufficient to produce the amount due together with any subsequent sums accrued due in respect of the land up to the time of sale and all costs and expenses of and attending the proceedings and the sale of such land, and that the proceeds be paid into court.
- (5) The court or judge shall order payment of any amount due for any rate made and levied by the board, and then payable in respect of the land, and all amounts due to the board to be first made out of the proceeds of sale, and the conveyance or

transfer, as the case may be, shall be executed by the registrar or such other officer of the court as the court or judge may direct to the purchaser, in the form approved by the court or judge.

- (6) Such conveyance or transfer shall vest the land sold in the purchaser for an estate in fee simple free from encumbrance, and in cases where the land is under the *Land Title Act 1994*, the purchaser shall be entitled to receive a certificate of title to the land.
- (7) The balance arising from the proceeds of such sale shall be subject to any orders of the court, in the first place, for the payment of any rate made and levied by the local government, and afterwards for the benefit of the parties interested therein.

155 Owners of estate less than fee simple may claim contribution

- (1) If any owner is entitled to a less estate than an estate in fee simple in the land, such owner or any person having any interest in the land may make application in a summary way to a judge of the Supreme Court sitting in chambers to have the expenses which by this Act are made payable by the owner, or for which the owner is liable, apportioned between the persons interested in the land.
- (2) The judge shall apportion such expenses between such persons in such proportions as, having regard to the nature and extent of their interests, the judge deems just.
- (3) Thereupon such persons shall become liable to the owner for the proportions respectively assigned to them, and if the owner has paid such expenses the owner may recover from each person liable to contribute under the order made by the judge the proportion payable by such person.
- (4) Upon the registration of such order with the secretary by lodging a copy thereof, such proportion shall until payment be and remain a charge (with interest at the rate of 10% per annum) upon such person's share and interest in the land in priority to all mortgages, charges, liens, and encumbrances whatsoever except rates as aforesaid.

- (5) A receipt signed by the person in whose favour such charge is made and attested by a justice, bank manager, solicitor, or solicitor's clerk, and lodged at the office of the secretary, shall be a sufficient discharge of such charge.
- (6) The secretary shall, in a book to be provided by the board for the purpose, which book shall be open to inspection, keep, without fee, a record of all such copy orders and receipts lodged with the secretary.
- (7) In any application under this section, the judge may make such order in regard to the payment of the costs of and incidental to the application as the judge deems just.
- (8) Rules may be made by the judges of the Supreme Court for defining the practice to be followed in making such applications; until such rules are made, the practice relating to summary applications in chambers shall be observed.

Division 5 Evidence

156 District etc. need not be proved

- (1) In any proceeding under this Act, it shall not be necessary for the complainant or plaintiff to prove the limits of the district or the limits of any water reserve, catchment area, or drainage area, or that any land is sewered premises within the meaning of this Act.
- (1A) But this provision shall not prejudice the right of any defendant to prove the facts.

Appointments and authority of officers presumed

- (2) In any proceeding for an offence against this Act, the due appointment of all officers of the board, and the authority of any officer to do any act or to institute such proceedings, shall be presumed until the contrary is proved.

Seal judicially noticed

- (3) The seal of the board affixed to any document shall be judicially noticed, and, until the contrary is proved, it shall be presumed to have been properly affixed thereto.

Evidence under repealed Acts

- (4) All books and documents made evidence under any of the Acts hereby repealed shall continue evidence to the same extent as if this Act had not been passed.

Evidence of appointment of deputy president

- (5) A minute made and authenticated in the prescribed manner of the appointment of any person as deputy president shall, as regards all persons having any business with the board, and acting in good faith, be deemed conclusive evidence of the validity of the appointment of such person as deputy president, and of the deputy president's continued authority to act as such, and shall relieve all persons having business as aforesaid from the necessity of making any inquiries in the matter.

Evidence of entries

- (6) Every entry in any book, purporting to be an entry relating to the proceedings of the board or any committee thereof and to be duly signed, or a certified copy of or an extract from any such entry, sealed with the seal of the board, and signed by the president and secretary, shall, upon the production thereof alone, be received as evidence of the proceedings appearing by such entry to have been taken, without proof of the meeting to which the same refers having been duly convened or held, or of the persons attending such meeting having been or being members of the board or members of committee respectively, or of the signatures of the president or secretary, or of the fact of their having been president or secretary respectively; and all such lastmentioned matters shall be presumed until the contrary is proved.

By-laws

- (7) A copy of the gazette containing a notification of the approval of a by-law shall be sufficient evidence of the due making of such by-law and of the contents thereof, and that it is still in force until the contrary is shown.

Plans etc.

- (8) In any proceeding the production of any map or plan purporting to be made by the board or any officer thereof under this Act, and sealed with the seal of the board, or purporting to be issued or published by any department of the Government or any officer thereof, shall be sufficient evidence of the matters stated or delineated thereon until the contrary is proved.
- (8A) Copies of the plans, sections, specifications, and books of reference mentioned in this Act, and of any alteration or correction thereof, or extracts therefrom, certified by the engineer or an authorised officer to be true copies thereof (which certificates such officer shall give to all parties interested when required, on payment of such fees as are prescribed by the board), shall be conclusive evidence of the contents thereof.

Documents signed by president etc. to be admitted evidence

- (9) All documents whatever purporting to be issued or written by or under the direction of the board or the president, and purporting to be signed by the president or secretary, shall be received in evidence in all courts, and shall be deemed to be issued or written by or under the direction of the board until the contrary is proved.
- (9A) In subsection (9)—
documents includes all orders, directions, and notices.

Presumption against registered proprietor

- (10) The production in any court of a certificate of title, memorandum of transfer, or other instrument creating an interest in land, or of a duly certified copy thereof, shall be sufficient evidence that the person named therein as registered proprietor, or as entitled to such interest, is the owner of or person entitled to an interest in such land until the contrary is proved.

Certificate of engineer

- (11) The certificate in writing of the engineer or an authorised officer that any works, fittings, drainage apparatus, sanitary conveniences, matters, or things have been done or supplied by the board pursuant to the requirement or for or on behalf of an owner or occupier shall be prima-facie evidence of the facts therein stated, and as to the amount of the expense and interest recoverable in respect thereof.

Register of meters to be prima-facie evidence

- (12) The quantity of water shown by the index or register of an authorised meter to have passed through such meter shall be taken prima facie to be the quantity of water which has actually passed through the meter and been supplied.
- (12A) A certificate under the hand of an authorised officer stating the quantity so shown shall, in any proceeding in which the quantity of water is in dispute, be prima-facie evidence of the quantity of water supplied.

Reference to 'owner' and 'occupier'

- (13) Whenever in any proceeding under this Act it becomes necessary to mention or refer to the owner or occupier of any land or premises, it shall be sufficient to designate the owner or occupier as the 'owner' or 'occupier' of such land or premises, without name or further description.

Presumption when water diverted

- (14) Whenever it is shown that any water is or has been wrongfully taken or used or illegally diverted or taken on to or into land owned or occupied by any person, the taking or using or diversion of such water shall be deemed to have been effected by or by the direction of such person, unless such person satisfies the court that such taking or using or diversion of the water on to or into such land was effected without the person's direction or connivance.

Part 12 Transitional provisions

157 Transitional provision for Audit Legislation Amendment Act 2006

- (1) This section applies if—
 - (a) before the commencement, the Minister appointed a person, under pre-amended section 114(1), to examine the accounts of the board for a period fixed by the Minister; and
 - (b) the period has not ended.
- (2) Pre-amended section 114 continues to apply as if the *Audit Legislation Amendment Act 2006* had not commenced.
- (3) In this section—

commencement means commencement of this section.

pre-amended, in relation to section 114, means the section as in force before the commencement.

Schedule 1

section 5

No. and Year of Act	Title of Act
34 Vic No. 6	An Act to provide for the construction of a culvert or waterway through and upon certain Crown lands within the City of Brisbane
53 Vic No. 9	<i>Brisbane Water Supply Act 1889</i>
2 Edw 7 No. 14	<i>Brisbane Water Supply Act Amendment Act 1902</i>
5 Edw 7 No. 23	<i>Brisbane Water Supply Amendment Act 1905</i>

**Schedule 2 Rules to be observed at
elections**

section 10(11)

[Not reprinted—see footnote 1 at section 1 of this Act]

**Schedule 3 Provisions governing and
relating to the proceedings and
business of the board**

section 14

[Not reprinted—see footnote 1 at section 1 of this Act]

Schedule 4 Subject matter for by-laws

section 20

1 Meetings

The times for holding meetings, the summoning and adjournment of meetings; the proceedings and preservation of order in meetings.

2 Business

The transaction and management of business.

3 Officers and servants

The duties, discipline, conduct, and regulation of the officers and servants of the board.

4 Seal

The custody and use of the common seal.

5 Forms

Prescribing forms to be used under or for the purposes of this Act; the form of contracts with the board.

6 Notices

The giving of notices.

7 Inspection

The inspection of works.

8 Plans

The deposit of plans and sections of proposed sewerage and drainage works and other works.

Schedule 4 (continued)**9 Plumbers etc.**

- (1) The examination and registration or licensing of plumbers, drainers, and other tradespersons employed in connection with water supply and sewerage and drainage works and other works.
- (2) Making provision for fining, suspending, or disqualifying them for breaches of this Act.

10 Fees

Prescribing fees payable for tapping the mains or connecting with the sewers of the board; and for licences, registrations, and permits, and house drainage plans.

11 Meters

Regulating the construction, disposition, custody, and inspection of meters and the fittings used therewith.

12 Waste etc. of water

Protecting and preventing and remedying the waste, misuse, undue consumption, or contamination of water contained in or supplied from the waterworks or otherwise under the control of the board.

13 Proper fittings

The testing, marking, and stamping of fittings, and of drainage apparatus and sanitary conveniences and prohibiting the use of any fittings and of drainage apparatus and sanitary conveniences not so tested, stamped, and marked; prohibiting any mode of arrangement and the use of any fittings or sanitary conveniences the use of which may, in the opinion of the board, cause or tend to cause any waste, misuse, undue consumption, fouling, or contamination of the water; repairing fittings.

Schedule 4 (continued)

14 Managing works

The due management and use of the water and other property of the board and of any water under its jurisdiction, and the construction, maintenance, extension, cleansing, repair, and management of the works.

15 Catchment areas etc.

The preservation of the catchment areas for water supply or any land comprised therein against pollution; and prohibiting the doing or continuance of anything likely to cause pollution thereof or of the water supply thereon.

16 Protecting the water and works

Protecting the water, the works, fittings, drainage apparatus, and other property of the board, and every part thereof, from trespass and injury.

17 Nuisances

Preventing and removing nuisances on lands and works vested in or under the control and management of the board.

17A Provision of sanitary conveniences

The provision, establishment, construction, situation, and use of sanitary conveniences upon any premises.

18 Prescribing materials, fittings etc.

- (1) The size, nature, description, strength and materials, and the mode of arrangement, alteration, and repairs of pipes, fittings, and sanitary conveniences which are to be placed or used in connection with water supply.
- (2) The time of executing and the notice to be given for such works and the superintending thereof, the making good ground displaced thereby; inspecting services.

Schedule 4 (continued)**19 Disinfection**

Regulating the disinfection and cleansing of or otherwise dealing with any substance or matter before the discharge thereof into any drain or sewer.

20 Water supply to groups of premises

The supply of water to groups of premises by means of a common stand pipe and fittings; the apportionment of the cost of the necessary works amongst the respective owners in such case.

21 Cattle and public vehicles

The conditions on which water may be used by consumers for the purposes of watering cattle and cleansing public vehicles; and the making and levying of additional rates or charges in such cases.

22 Prescribing quantity of water to be used by consumers

The quantity of water which consumers are entitled to receive from the works for domestic or other purposes; the method of ascertaining such quantity; and the price to be charged to and paid by consumers for the water supplied to them from the works for domestic or other purposes taking into due consideration any water rates made and levied.

23 Insufficiency of water

To meet the contingency of any insufficiency or threatened insufficiency in the general water supply.

24 Specifying purposes other than domestic

- (1) Specifying the purposes other than domestic for which, and the persons or classes of persons to whom, water may be supplied under agreement, and the general and special terms

Schedule 4 (continued)

and conditions (including guarantees and securities for payment) upon which water shall be so supplied.

- (2) In such cases—
 - (a) fixing a scale of charges for water supplied by measure and a minimum charge to be paid as a water rate for such water in all cases where water is so supplied, and varying and altering the same;
 - (b) determining the time at which any charges for water are to be payable, whether in advance or otherwise;
 - (c) determining the quantity, time, order, and manner of delivery of water.
- (3) Such by-laws may be applicable generally or to any particular cases or circumstances.

25 Purposes for which water not supplied

Specifying purposes for which water shall not be supplied or shall only be supplied to a limited extent.

26 Misuse of water

Preventing any person from allowing any other person not having agreed to be supplied by the board to use the water, and preventing such person from using the same.

27 Specifying where fittings may be laid or placed

Specifying how far within the exterior edge of land prescribed fittings may be laid down, placed, fixed, or attached thereto by the board or any authorised person.

28 Supply to sanitary conveniences

Regulating the supply of water to sanitary conveniences.

Schedule 4 (continued)

29 Building on low-lying land

- (1) Prohibiting the erection of dwelling houses or the adaptation of any buildings for use as dwelling houses on sewered premises which are so situated as not to admit of being drained by gravitation into an existing sewer of the board, or any defined area or areas of such land.
- (2) Regulating the erection of dwelling houses or the adaptation of buildings for use as dwelling houses on sewered premises or any defined area or areas of such land.
- (3) Prescribing the level at which the under side of the lowest floor of any permitted building shall be placed on sewered premises or any defined area or areas of such land, and as to the provision to be made and maintained by the owner for securing efficient and proper drainage of the buildings.

30 Trade refuse

Prohibiting or restricting the turning into any sewerage works of trade refuse from tanneries, chemical works, wool scours, slaughter houses, abattoirs, or any other industrial operations.

31 Fixing levels of water

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

32 Sewers and drains

The levels, dimensions, construction, maintenance, ventilation, and cleansing of sewers and drains; the purposes for which and the conditions under which sewers, drains, and drainage apparatus may be used or applied; the materials and apparatus to be used for any of those purposes; preventing or regulating the laying of drains under structures.

Schedule 4 (continued)

33 New sewers on cutting up land

Provision of sewers to be made at the expense of any person laying out or selling land for building purposes.

34 Charge for water supplied to lands not rateable

Fixing scales of charges for water supplied to lands which are not rateable for the purposes of the Local Government Act, which charges, in the discretion of the board, may be determined by rate assessed in accordance with this Act or by measurement of the water supplied, and may vary from the charges made for water supplied to other lands and determined in a similar manner, and may also vary in respect of the different classes of lands not so rateable.

35 Sale of water

Prescribing the moneys to be paid for water supplied, and the payment and collection thereof.

36 Charges for water supplied by measure

- (1) Fixing the scale of charges to be paid where water is sold and supplied to consumers by measure, including the fixing of a minimum amount to be paid in every case, as a water rate, and prescribing the conditions upon which the water shall be supplied.
- (2) Such by-laws may—

Minimum payment

- (a) fix a minimum amount as a water rate which shall be payable in respect of water supplied to any consumer during any year or part of a year;

Reduction of price

- (b) provide for a reduction in the price of water so supplied in excess of a specified quantity.

Schedule 4 (continued)

37 Levying rates

Making, levying, and collecting rates.

38 Basis of water rating

Defining the basis upon which water rates may be assessed, which basis may, subject to this Act, be—

- (a) the value of the land; or
- (b) the total superficial area of the floors measured externally in the buildings (if any) erected on the land; or
- (c) the uses to which the land or such buildings are put; or
- (d) the mean height of the land above sea level; or
- (e) any basis arrived at, taking into any consideration any 2 or more of the abovementioned bases; or
- (f) any other basis fixed by the board.

39 Basis of sewerage rating

Defining the basis upon which sewerage rates shall be assessed, which basis may, subject to this Act, be—

- (a) the value of the land; or
- (b) the uses to which the land or the buildings erected on the land are put; or
- (c) any other basis fixed by the board.

40 Increase or reduction in price of water

Provided for an increase or reduction of the price of water supplied, taking into consideration the purpose for which lands or any buildings erected thereon are used, and whether the water supplied is charged for by way of rating or by measurement of the quantity supplied, or otherwise however.

Schedule 4 (continued)

41 Removal etc. of unlawful works

The power to remove, take up, alter, or destroy any work begun or done in contravention of this Act.

41A Riparian owners

- (1) Regulating and controlling the exercise of rights for the purpose of securing the transmission of water in part or wholly supplied from any works of the board to owners or occupiers of land adjoining the banks of any river, stream, or watercourse who may have purchased or who may hereafter purchase water from such works, and to all other purchasers of water from such works, without any diversion or interference by any intermediate owner or occupier of lands adjoining such banks.
- (2) However, such by-laws shall be so framed as to preserve the rights of such intermediate owners or occupiers to so much water as they would have been entitled to but for the existence of the works of the board.

41B Electricity etc.

The supply and distribution of light or electric or hydraulic or other power and the making, levying, and collection of charges therefor by consumers in cases where the works have been constructed and are under the management and control of the board.

42 Generally

Generally for carrying into effect the purposes of this Act in respect of any matter not herein provided for or insufficiently provided for, and as to which the Governor in Council, by order in council, permits by-laws to be made.

Schedule 5 Forms**No. 1 Declaration of office**

[Not reprinted—see footnote 1 at section 1 of this Act]

**No. 2 Metropolitan Water and
Sewerage Board****General notice**

The Metropolitan Water and Sewerage Board having made sewers for carrying off the sewage from each premises which, or any part of which, is comprised in or is adjacent to the land or abuts on the roads or parts of roads in which such sewers are laid, and which are included within the locality hereinafter described, hereby declares that on and after the day of , 19 , each premises which, or any part of which, is comprised in or is adjacent to such land or abuts on the said roads or parts of roads, and which is within 300ft of the said sewers, shall be deemed to be seweried premises within the meaning of the *Metropolitan Water Supply and Sewerage Act 1909*.

The locality hereinbefore referred to is [*here describe same*].

By order of the board,

A.B., president.

C.D., secretary.

Schedule 5 (continued)

No. 3 Metropolitan Water and Sewerage Board**Further general notice**

To the owner of premises situated [*here state situation of premises*].

The Metropolitan Water and Sewerage Board, having made sewers for carrying off the sewage from each premises which, or any part of which, abuts on the road or part of a road hereinafter described, hereby orders as follows—

- 1 Within 1 month after the day of 19 or within such further time as the board may, either before or after the expiration of such 1 month, allow, you are required to—

- (a) submit to the board a plan for providing the abovementioned property with such sanitary conveniences, and such drains and drainage apparatus, to be fitted and laid in such manner as may be prescribed by the by-laws of the board, with such variations (if any) from such by-laws as the board, on written application made to it, may in writing approve.

In this case the board may approve such plan, or make such alterations therein, or modifications thereof, as to the board seems proper; or

- (b) submit to the board a plan as aforesaid, and, in writing, request the board to give an estimate of the expense of executing the work in accordance with such plan.

In this case the board may approve such plan, or make such alterations therein, or modifications thereof, as to the board seems proper, and the board shall give an estimate of the expense of executing the work in accordance with such plan as so approved, or as so altered or modified; or

- (c) in writing, request the board to prepare a plan as aforesaid; or

Schedule 5 (continued)

- (d) in writing, request the board to prepare a plan as aforesaid, and give an estimate of the expense of executing the work in accordance with the plan so prepared.

The expense of preparing any plan or giving any estimate as aforesaid shall be fixed by the board, and shall be borne by you, and shall be paid by you to the board upon your being notified that the board has prepared such plan or made such estimate.

If you shall fail or neglect within the limited time to submit any plan or to make any request as aforesaid, you shall be deemed to have requested the board to prepare a plan and give an estimate of the expense of executing the work in accordance with the plan so prepared.

- 2(1) The board will, as soon as conveniently may be, approve of such plan submitted by you with or without alterations or modifications, or comply with such of the aforesaid requests as you may make, and will thereupon notify you of such approval or compliance, as the case may be, and at the same time or at any time thereafter the board may by notice in writing order you within 1 month from such notice, or within such further time as the board may allow, to execute the work in accordance with the plan so approved or prepared as aforesaid.
- (2) If you disobey such order and do not make the request in subsection (3), you will be punishable by a penalty not exceeding \$40 and a daily penalty not exceeding \$4.
- (3) In addition thereto the board may carry out and perform on your behalf and at your expense any works, matters, and things in which you have made default.
- (4) You may, within 14 days from such order as aforesaid, or within such further time as the board may allow, request the board in writing to execute the work at your expense, either for the estimated amount or at actual cost.
- 3 In the even of the board executing the work, pursuant to your request, the board may, if so requested and upon proof to its satisfaction that you are unable to pay the expense thereof

Schedule 5 (continued)

otherwise, accept payment of the expense thereof by 20 quarterly instalments, bearing interest at the rate per centum per annum which the board is required to pay as and by way of interest on any loan for house connection purposes, on such portion as from time to time remains unpaid.

- 4(1) Such request must be made in writing, and signed by you, and must be lodged with the board within 1 month from the time of your being notified, in writing, by the board of the amount of such expense.
- (2) The first quarterly instalment shall be payable immediately on the expiration of the said month.
- (3) You may at any time pay to the board such portion as then remains unpaid of such expense, together with interest thereon at the said rate to the date of such payment.
- 5 The road or part of a road hereinbefore referred to is [*here describe same*].
- 6 The by-laws of the board can be inspected at the office of the board, situate at [*here state situation of office*].
- 7 A copy of the by-laws of the board can be purchased at the said office.

Dated this day of , 19 .

By order of the board,

A.B., president.

C.D., secretary.

Schedule 5 (continued)

No. 5**Warrant of distress**

The Metropolitan Water and Sewerage Board.

To _____, the bailiff of the board or the bailiff's assistant.

Whereas the rateable land, numbered _____ in the rate-book of the board, has been rated at the sum of \$ _____ per annum for a [*specifying the rate*] rate; [*or* whereas the sum of \$ _____ is due or payable in respect of water supplied by meter by the board to the occupier of the rateable land numbered _____ in the rate-book of the board (*or as the case may be*)]; and whereas the said amount [*or* a portion of the said amount], to wit, \$ _____, was duly demanded from, the occupier of such land, by notice, signed by the secretary [*or as the case may be*] on the day _____ of, _____ 19 _____, [*or as the case may be*], and has not yet been paid: These are, therefore, to require and authorise you forthwith to levy the said sum of \$ _____, together with the costs of these presents and of such levy, by distress and sale of the goods and chattels found by you on the said land, according to law, and that you certify to me on the _____ day of _____, what you do by virtue of this warrant.

Given under my hand and seal of the board, this _____ day of _____, A.D. 19 _____.

A.B., president.

Warrant

Levy

Possession at per diem...

Mileage

\$

Office of the board,

Brisbane, _____ 19 _____.

Schedule 5 (continued)

No. 6**Scale**

For every warrant of distress	20c
For man in possession, each day or part of a day	50c
For inventory, sale, commission, and delivery of goods.	Not exceeding 10c in the pound on the proceeds of the sale
Mileage—for every mile or part of a mile where the warrant is executed not more than 2 miles from the office of the board	10c
Where such distance exceeds 2 miles, for every mile beyond	5c

Schedule 5 (continued)

No. 7**Notice under the Metropolitan
Water Supply and Sewerage
Act of 1909**

To

Notice is hereby given that the sum of dollars cents is now due and unpaid to the board for [*specifying rate*] rates in respect of [*or for moneys payable for water supplied by meter by the board to the occupier of (or as the case may be)*] allotment no. of section no. [*or portion no.*], situated in street [*or road or other situation*].

Payment of the said sum is hereby demanded.

If the said sum is not paid within 6 months from the date of this notice, the board will take possession of and lease the said land, under the abovementioned Act.

President [*or secretary*].

Office of the board,

Brisbane, 19 .

Endnotes

1 Index to endnotes

	Page
2 Date to which amendments incorporated	141
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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 1 July 2010. Future amendments of the Metropolitan Water Supply and Sewerage Act 1909 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	1974 Act No. 76	1 December 1975	7 June 1996
1A	1996 Act No. 75	1 February 1997	7 May 1997
1B rv	2000 Act No. 5	23 March 2000	5 April 2000

Reprint No.	Amendments included	Effective	Notes
1C rv	2005 Act No. 48	1 December 2005	
1D	2006 Act No. 9	15 March 2006	R1D withdrawn, see R2
2	—	15 March 2006	
2A	2008 Act No. 67	1 December 2008	
2B	2009 Act No. 9	1 July 2009	
2C	2009 Act No. 17	1 July 2010	
	2010 Act No. 23		

5 Tables in earlier reprints

Name of table	Reprint No.
Changed citations and remade laws	1
Changed names and titles	1
Comparative legislation	1
Corrected minor errors	1
Obsolete and redundant provisions	1
Renumbered provisions	1

6 List of legislation

Metropolitan Water Supply and Sewerage Act 1909 9 Edw 7 No. 12 (prev Short titles see list of annotations s 1)

date of assent 23 December 1909

for commencement date see s 3

amending legislation—

Metropolitan Water Supply and Sewerage Act Amendment Act 1915 6 Geo 5 No. 32 (this Act is amended, see amending legislation below)

date of assent 29 December 1915

commenced on date of assent

amending legislation—

Metropolitan and Ipswich Water Supply and Sewerage Acts Amendment Act 1918 9 Geo 5 No. 18 s 1 (amends 1915 6 Geo 5 No. 32 above)

date of assent 18 November 1918

commenced on date of assent

Metropolitan Water Supply and Sewerage Acts Amendment Act 1921 12 Geo 5 No. 28 ss 1(1), 12(2)(i) (amends 1915 6 Geo 5 No. 32 above)

date of assent 14 November 1921

commenced on date of assent

Metropolitan Water Supply and Sewerage Acts Amendment Act 1918 9 Geo 5 No. 18 (this Act is amended, see amending legislation below)

date of assent 18 November 1918

commenced on date of assent

amending legislation—

Metropolitan Water Supply and Sewerage Acts Amendment Act 1921 12 Geo 5 No. 28 ss 1(1), 12(2)(i) (amends 1918 9 Geo 5 No. 28 above)

date of assent 14 November 1921

commenced on date of assent

**Metropolitan and Ipswich Water Supply and Sewerage Acts Amendment Act 1921
12 Geo 5 No. 2**

date of assent 22 August 1921
commenced on date of assent

**Metropolitan Water Supply and Sewerage Acts Amendment Act 1921 12 Geo 5 No.
28**

date of assent 14 November 1921
commenced on date of assent

**Metropolitan Water Supply and Sewerage Acts Amendment Act 1923 14 Geo 5 No.
17**

date of assent 10 October 1923
commenced on date of assent

**Metropolitan Water Supply and Sewerage Acts Amendment Act 1924 15 Geo 5 No.
27**

date of assent 30 October 1924
commenced on date of assent

**City of Brisbane Act 1924 15 Geo 5 No. 32 s 51 and see order pubd gaz 28 March
1928 p 1157**

date of assent 30 October 1924
commenced on date of assent

Mines Regulation Acts and Another Act Amendment Act 1945 9 Geo 6 No. 15 pt 3

date of assent 5 April 1945
commenced 18 August 1945 (proc pubd gaz 18 August 1945 p 251)

**Metropolitan Water Supply and Sewerage Acts Amendment Act 1949 13 Geo 6 No.
44**

date of assent 10 November 1949
commenced on date of assent

City of Brisbane Acts and Other Acts Amendment Act 1953 2 Eliz 2 No. 19 pt 4

date of assent 10 December 1953
commenced on date of assent

City of Brisbane (Water Supply) Act 1959 8 Eliz 2 No. 29 s 16

date of assent 16 April 1959
commenced on date of assent

City of Brisbane (North Pine River Dam) Act 1962 11 Eliz 2 No. 23 s 11

date of assent 3 April 1962
commenced on date of assent

Acquisition of Land Act 1967 No. 48 s 3(2) sch 1 pt 2

date of assent 22 December 1967
commenced 23 March 1968 (proc pubd gaz 23 March 1968 p 1206)

Limitation of Actions Act 1974 No. 75 s 4 sch

date of assent 1 November 1974
commenced 1 July 1975 (see s 2)

Property Law Act 1974 No. 76 s 3(2) sch 6

date of assent 1 November 1974

commenced 1 December 1975 (see s 1(2))

WorkCover Queensland Act 1996 No. 75 ss 1–2, 535 sch 2

date of assent 12 December 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 February 1997 (1996 SL No. 442)

Police Powers and Responsibilities Act 2000 No. 5 ss 1–2(1)–(2), 373 sch 2

date of assent 23 March 2000

commenced on date of assent (see s 2(1)–(2))

Public Health Act 2005 No. 48 ss 1–2, 492 sch 1

date of assent 2 November 2005

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 2005 (2005 SL No. 280)

Audit Legislation Amendment Act 2006 No. 9 pts 1, 13

date of assent 15 March 2006

commenced on date of assent

Transport and Other Legislation Amendment Act 2008 No. 67 s 1, pt 3 div 9

date of assent 1 December 2008

commenced on date of assent

Financial Accountability Act 2009 No. 9 ss 1, 2(2), 136 sch 1

date of assent 28 May 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2009 (2009 SL No. 80)

Local Government Act 2009 No. 17 ss 1, 2(4), 331 sch 1

date of assent 12 June 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2010 (2010 SL No. 122)

City of Brisbane Act 2010 No. 23 ss 1–2(1), 352 sch 1

date of assent 17 June 2010

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2010 (see s 2(1))

7 List of annotations

Title amd 1918 9 Geo 5 No. 18 s 1 (amd 1921 12 Geo 5 No. 28 s 12(2)(i)); 1921 12 Geo 5 No. 28 s 1(1)

Short title**s 1**

sub 1915 6 Geo 5 No. 32 s 1(1)

amd 1918 9 Geo 5 No. 18 s 1 (amd 1921 12 Geo 5 No. 28 s 12(2)(i)); 1921 12 Geo 5 No. 28 s 1(1)

Interpretation

- s 4** def “**audit office**” ins 2006 No. 9 s 31
 amd 2009 No. 9 s 136 sch 1
 def “**board**” amd 1915 6 Geo 5 No. 32 s 1(2); 1918 9 Geo 5 No. 18 s 2 (om
 1921 12 Geo 5 No. 28 s 12(2)(ii); 1921 12 Geo 5 No. 28 s 12(1)(i)
 def “**by-laws**” om R1 (see RA s 39)
 def “**district**” amd 1915 6 Geo 5 No. 32 s 1(2); 1918 9 Geo 5 No. 18 s 2 (om
 1921 12 Geo 5 No. 28 s 12(2)(ii); 1921 12 Geo 5 No. 28 s 12(1)(i); 1953 2
 Eliz 2 No. 19 s 9
 def “**drain**” sub 1915 6 Geo 5 No. 32 s 2
 def “**Elections Act**” ins 1921 12 Geo 5 No. 28 s 2
 def “**elector**” ins 1921 12 Geo 5 No. 28 s 2
 def “**electoral district**” ins 1921 12 Geo 5 No. 28 s 2
 def “**local government**” sub 1921 12 Geo 5 No. 28 s 2
 om 2009 No. 17 s 331 sch 1
 def “**Local Government Act**” amd 2009 No. 17 s 331 sch 1
 def “**Minister**” om R1 (see RA s 39)
 def “**open to inspection**” amd 1921 12 Geo 5 No. 28 s 12(1)(iii)
 def “**Public Works Land Resumption Act**” om 1967 No. 48 s 3(2) sch
 def “**qualified person**” ins 2006 No. 9 s 31
 def “**sewer**” sub 1915 6 Geo 5 No. 32 s 2
 def “**stream**” amd 1918 9 Geo 5 No. 18 s 2
 def “**this Act**” om R1 (see RA s 39)
 def “**waterworks**” amd 1918 9 Geo 5 No. 18 s 2
 def “**works**” amd 1915 6 Geo 5 No. 32 s 2; 1918 9 Geo 5 No. 18 s 2

The Metropolitan Water and Sewerage Board

- s 6** amd 1915 6 Geo 5 No. 32 s 1(2); 1918 9 Geo 5 No. 18 s 3 (om 1921 12 Geo 5
 No. 28 s 12(2)(iii))

District

- prov hdg** sub 1921 12 Geo 5 No. 28 s 3
s 7 amd 1915 6 Geo 5 No. 32 ss 1(2), 3; 1918 9 Geo 5 No. 18 s 4 (om 1921 12
 Geo 5 No. 28 s 12(2)(iii))
 sub 1921 12 Geo 5 No. 28 s 3; 1953 2 Eliz 2 No. 19 s 10
 amd 2010 No. 23 s 352 sch 1

Division 2—Constitution of the Board

- prov hdg** om R1 (see RA s 37)

Number of Board

- s 8** om R1 (see RA s 37)

President

- s 9** om R1 (see RA s 37)

Elected members

- s 10** amd 1915 6 Geo 5 No. 32 s 4
 sub 1918 9 Geo 5 No. 18 s 5 (om 1921 12 Geo 5 No. 28 s 12(2)(iii)); 1921 12
 Geo 5 No. 28 s 4
 om R1 (see RA s 37)

Temporary provision for representation of Ipswich Division until 1922

s 10A ins 1918 9 Geo 5 No. 18 s 5
om 1921 12 Geo 5 No. 28 s 12(1)(ii)

Disqualifications

s 11 om R1 (see RA s 37)

Remuneration of president and members

s 12 amd 1915 6 Geo 5 No. 32 s 5
om R1 (see RA s 37)

First meeting

s 13 om R1 (see RA s 37)

Provisions relating to proceedings and business—sch 3

s 14 om R1 (see RA s 37)

Appointment of officers

s 16 amd 1915 6 Geo 5 No. 32 s 6

Qualified exemption from rates

s 19 amd 1918 9 Geo 5 No. 18 s 6; 1921 12 Geo 5 No. 28 s 5

Testing the validity of by-law

s 25 amd 1921 12 Geo 5 No. 28 s 12(1)(iv)

Brisbane River supply

s 27 amd 1915 6 Geo 5 No. 32 s 7; 1918 9 Geo 5 No. 18 s 7 (amd 1921 12 Geo 5 No. 28 s 12(2)(iii), (3)); 1921 12 Geo 5 No. 28 s 6; 1959 8 Eliz 2 No. 29 s 16(1); 1962 11 Eliz 2 No. 23 s 11(1)(a)

Preliminaries to construction

s 28 amd 1918 9 Geo 5 No. 18 s 8

Interference with railway works

s 31 amd 2008 No. 67 s 125

Board may go outside district

s 33 amd 1918 9 Geo 5 No. 18 s 9

Powers of board

s 34 amd 1915 6 Geo 5 No. 32 s 8; 1918 9 Geo 5 No. 18 s 10; 1921 12 Geo 5 No. 28 s 7; 1949 13 Geo 5 No. 44 s 2; 1967 No. 48 s 3(2) sch

Works by tramway company

s 34A ins 1918 9 Geo 5 No. 18 s 11
amd 1923 14 Geo 5 No. 17 s 2

Provision relating to breaking up roads

s 35 amd 1915 6 Geo 5 No. 32 s 9; 1918 9 Geo 5 No. 18 s 12

Damage to works by electricity

s 37 amd 1918 9 Geo 5 No. 18 s 13

Structures not to be placed so as to interfere with works without authority

s 37A ins 1921 12 Geo 5 No. 28 s 8

Local government to give particulars etc.

prov hdg sub 1921 12 Geo 5 No. 28 s 9
s 38 sub 1915 6 Geo 5 No. 32 s 10; 1921 12 Geo 5 No. 28 s 9

Particulars of valuations to be furnished by local government

s 38A ins 1921 12 Geo 5 No. 28 s 9

Application of Mines Regulation Acts

s 38B ins (as s 38A) 1915 6 Geo 5 No. 32 s 11
om 1945 9 Geo 6 No. 15 s 7(i)

Regulations as to health, &c.

s 38C ins 1923 14 Geo 5 No. 17 s 3
om 1945 9 Geo 6 No. 15 s 7(ii)

Supply to Botanic Gardens

s 41 amd 1915 6 Geo 5 No. 32 s 12; 1918 9 Geo 5 No. 18 s 14 (om 1921 12 Geo 5 No. 28 s 12(2)(iii))

Water supply to adjoining areas

s 42 amd 1962 11 Eliz 2 No. 23 s 11(1)(b)

Water supply to water supply board

s 42A ins 1918 9 Geo 5 No. 18 s 15 (amd 1921 12 Geo 5 No. 28 s 12(2)(iv))
amd 1921 12 Geo 5 No. 28 s 12(1)(i)

Request for supply to premises in a road

s 43 amd 1915 6 Geo 5 No. 32 s 13; 1923 14 Geo 5 No. 17 s 4

Supply in other cases

s 44 amd 1915 6 Geo 5 No. 32 s 13(2); 1923 14 Geo 5 No. 17 s 5

Agreement to supply water for non-domestic purposes

s 45 amd 1918 9 Geo 5 No. 18 s 16

Board may sell water

s 46 amd 1915 6 Geo 5 No. 32 s 14

Lessening etc. supply for domestic purposes

s 47 sub 1923 14 Geo 5 No. 17 s 6

Lessening etc. supply for other purposes

s 48 sub 1923 14 Geo 5 No. 17 s 7

Public fire hydrants

s 49 amd 1915 6 Geo 5 No. 32 s 15

Meters

s 53 amd 1915 6 Geo 5 No. 32 s 16

When water may be cut off

s 58 amd 1923 14 Geo 5 No. 17 s 8

Electricity and motive power

s 58A ins 1918 9 Geo 5 No. 18 s 17

Revenue, how applied

s 80 amd 1915 6 Geo 5 No. 32 s 1(2)

Existing loan

s 81 amd 1915 6 Geo 5 No. 32 s 1(1)
 om R1 (see RA s 37)

Board may obtain bank overdraft

s 85 amd 1923 14 Geo 5 No. 17 s 9

Application to sell debentures

s 85A ins 1921 12 Geo 5 No. 2 s 2

Debentures to be under seal

s 85B ins 1921 12 Geo 5 No. 2 s 2
 amd 1924 15 Geo 5 No. 27 s 2

Loans by the issue of inscribed stock

s 85C ins 1921 12 Geo 5 No. 2 s 2
 amd 1924 15 Geo 5 No. 27 s 3

Debentures and stock take priority over indebtedness to Treasurer

s 85D ins 1924 15 Geo 5 No. 27 s 4

Lands subject to water rates when main laid before this Act

s 87 amd 1915 6 Geo 5 No. 32 s 17

Basis of water rating

s 88 amd 1915 6 Geo 5 No. 32 s 18

Form of “rate-book”—sch 5, form 4

s 94 amd 1915 6 Geo 5 No. 32 s 19

Rate-book may be amended by the board

s 95 amd 1915 6 Geo 5 No. 32 s 20; 1923 14 Geo 5 No. 17 s 10

When owner to pay rates and when occupier

s 97 amd 1915 6 Geo 5 No. 32 s 21; 1923 14 Geo 5 No. 17 s 11

Remedies against tenant where owner liable, and his or her remedies over

s 99 amd 1915 6 Geo 5 No. 32 s 22

Recovery of rates

s 100 amd 1974 No. 76 s 3(2) sch 6

Rates to be apportioned on the occupier etc. quitting

s 102 amd 1915 6 Geo 5 No. 32 s 23; 1923 14 Geo 5 No. 17 s 12

Lands may be let when rates are in arrear

s 104 amd 1915 6 Geo 5 No. 32 s 24

Recovery of rates charged on land sold by local government

s 105 sub 1915 6 Geo 5 No. 32 s 25

Exemption from rates in certain cases

s 106A ins 1921 12 Geo 5 No. 28 s 10
 amd 1996 No. 75 s 535 sch 2

Appointment of auditors

s 108 amd 2006 No. 9 s 32

Yearly audit

s 109 amd 1921 12 Geo 5 No. 28 s 12(1)(v)

Examination and settlement of accounts

s 110 amd 1921 12 Geo 5 No. 28 s 12(1)(vi)

Financial statement

s 111 amd 1921 12 Geo 5 No. 28 s 12(1)(vii); 1923 14 Geo 5 No. 17 s 13

Report of auditor

s 113 amd 1921 12 Geo 5 No. 28 s 12(1)(viii)

Special audit

s 114 amd 2006 No. 9 s 33

Officers exacting or accepting fees

s 116 amd 1915 6 Geo 5 No. 32 s 1(2); 1921 12 Geo 5 No. 28 s 12(1)(ix)

Fouling water

s 120 amd 1915 6 Geo 5 No. 32 s 26; 1918 9 Geo 5 No. 18 s 18

Interfering with works

prov hdg sub 1918 9 Geo 5 No. 18 s 19

s 123 sub 1918 9 Geo 5 No. 18 s 19
 amd 1921 12 Geo 5 No. 28 s 11

Depositing dirt, chemical refuse etc. into sewers etc.

s 124 amd 1915 6 Geo 5 No. 32 s 27

Obstructing execution of Act

s 126 amd 1915 6 Geo 5 No. 32 s 28

Duty of police officers

s 135 om 2000 No. 5 s 373 sch 2

Orders in council

s 136 amd 1924 15 Geo 5 No. 27 s 5

Free search in office of registrar of titles

s 137A ins 1915 6 Geo 5 No. 32 s 29

Free search in Supreme Court registry

s 137B ins 1915 6 Geo 5 No. 32 s 29

Remedies for moneys due

s 139 amd 1915 6 Geo 5 No. 32 s 30

Limitation of liability

s 144 sub 1923 14 Geo 5 No. 17 s 14(1)

Particulars of claim

s 144A ins 1923 14 Geo 5 No. 17 s 14(1)

Tribunal

s 144B ins 1923 14 Geo 5 No. 17 s 14(1)

Right of entry to prevent interference with watercourse

s 145A ins 1918 9 Geo 5 No. 18 s 20

Notice of action

s 146 om 1974 No. 75 s 4 sch

Board may recover expense of work

s 149 amd 1923 14 Geo 5 No. 17 s 15

Expenses to remain charge on premises

s 154 amd 1915 6 Geo 5 No. 32 s 31

PART 12—TRANSITIONAL PROVISIONS

pt 12 (s 157) ins 2006 No. 9 s 34

SCHEDULE 2—RULES TO BE OBSERVED AT ELECTIONS

s 4 amd 1918 9 Geo 5 No. 18 s 22(i); 1921 12 Geo 5 No. 28 ss 12(1)(i), 12(1)(x)

s 6 amd 1918 9 Geo 5 No. 18 s 22(ii); 1921 12 Geo 5 No. 28 s 12(1)(x)

s 9 amd 1921 12 Geo 5 No. 28 s 12(1)(x)

s 11 amd 1915 6 Geo 5 No. 32 s 32(1)

s 16 amd 1918 9 Geo 5 No. 18 s 22(iii)

s 17 amd 1915 6 Geo 5 No. 32 s 32(2)

s 20 amd 1921 12 Geo 5 No. 28 s 12(1)(x)

s 25 amd 1915 6 Geo 5 No. 32 s 32(3)

s 27A ins 1923 14 Geo 5 No. 17 s 16

s 28 amd 1915 6 Geo 5 No. 32 s 32(4)

om R1 (see RA s 37)

SCHEDULE 3—PROVISIONS GOVERNING AND RELATING TO THE PROCEEDINGS AND BUSINESS OF THE BOARD

s 26 amd 1915 6 Geo 5 No. 32 s 33(1)

s 28 amd 1915 6 Geo 5 No. 32 s 1(2)

s 31 amd 1915 6 Geo 5 No. 32 s 33(2)

s 32 amd 1915 6 Geo 5 No. 32 s 33(3)

s 35 amd 1923 14 Geo 5 No. 17 s 17

om R1 (see RA s 37)

SCHEDULE 4—SUBJECT-MATTER FOR BY-LAWS**Plans**

s 8 amd 1918 9 Geo 5 No. 18 s 23(i)

Plumbers etc.

s 9 amd 1918 9 Geo 5 No. 18 s 23(ii)

Proper fittings

s 13 amd 1915 6 Geo 5 No. 32 s 34(1)

Provision of sanitary conveniences

s 17A ins 1915 6 Geo 5 No. 32 s 34(2)

amd 2005 No. 48 s 492 sch 1

Prescribing quantity of water to be used by consumers

s 22 amd 1915 6 Geo 5 No. 32 s 34(3)

Specifying purposes other than domestic

s 24 amd 1918 9 Geo 5 No. 18 s 23

Trade refuse

s 30 sub 1923 14 Geo 5 No. 17 s 18

Charges for water supplied by measure

s 36 amd 1915 6 Geo 5 No. 32 s 34(4)

Riparian owners

s 41A ins 1918 9 Geo 5 No. 18 s 23

Electricity etc.

s 41B ins 1918 9 Geo 5 No. 18 s 23

SCHEDULE 5—

amd 1915 6 Geo 5 No. 32 s 1(1); 1918 9 Geo 5 No. 18 s 24 (amd 1921 12 Geo 5 No. 28 s 12(2)(v)); 1921 12 Geo 5 No. 28 s 12(1)(i); 1923 14 Geo 5 No. 17 s 19; R1 (see RA s 37)

SCHEDULE VI—METROPOLITAN AND IPSWICH WATER SUPPLY AND SEWERAGE DISTRICT

ins 1918 9 Geo 5 No. 18 s 25 (om 1921 12 Geo 5 No. 28 s 12(2)(v))

SCHEDULE VII—

ins 1918 9 Geo 5 No. 18 s 25 (om 1921 12 Geo 5 No. 28 s 12(2)(v))

8 Transitional and savings provisions

Section 51 of Act No. 32 of 1924 provides—

On and after a date to be fixed in that behalf by the Governor in Council, by Order in Council, the Metropolitan Water Supply and Sewerage Board, constituted under the Metropolitan Water Supply and Sewerage Act, shall be dissolved, and thereupon the following provisions shall be applicable:—

- (1) All the water works and all lands vested in and under the control of the dissolved Board, and all interests, rights, benefits, and advantages appurtenant to, connected with, or related to all such water works and lands, and all other works, structures, plant, machinery, pipes, and all other appliances, fittings, and apparatus (other than service pipes laid within any private land at the cost of any owner or occupier of such land) and all main sewers and reticulation sewers and other works relating to sewerage, and all personal property whatsoever of the dissolved Board, shall without any transfer conveyance or assignment, or notice other than this Act, be vested in the Council for the purposes of this Act.
- (2) All such water works constructed or in course of construction shall continue and be completed and shall be maintained and managed by the Council under and subject to this Act in all respects as if they had been constructed under the authority hereof.
- (3) All rights, liabilities, obligations, contracts, and engagements of the dissolved Board then existing shall be and continue to be vested in and shall attach to and may be enforced by or against the Council under this Act.

Metropolitan Water Supply and Sewerage Act 1909

- (4) Nothing in the aforesaid provisions contained shall be deemed to prejudicially affect or alter the rights, powers, and authorities of the Crown or the Governor in Council or the Minister or any State officer acting under or in pursuance of the Metropolitan Water Supply and Sewerage Act or any Orders in Council made thereunder.
- (5) The Governor in Council shall, by the same Order in Council by which the aforesaid Board is abolished, authorise, declare, adjust, and determine:—
- (a) The enactments of the aforesaid Act which shall apply to and be in force within the City and shall be observed and administered by the Council until the Council has made ordinances in that behalf: Provided that such modifications, whether by alteration or enlargement, of any such enactments may be made by such Order as to the Governor in Council seems expedient in order to meet the circumstances; and such enactments as so modified shall apply to and be in force within the City, and be observed and administered by the Council until the Council has made ordinances in that behalf.
- (b) Any rights, claims, and matters, and all questions and disputes which are necessary or proper to be declared, adjusted, and determined, whether as between the dissolved Board and any Local Authority or local governing body, or as between the dissolved Board and the Treasurer or any State Department.

Order in council pubd gaz 28 March 1928 p 1157 provides—

WHEREAS by “*The City of Brisbane Act of 1924*” it is amongst other things enacted that, on and after a date to be fixed in that behalf by the Governor in Council, by Order in Council, the Metropolitan Water Supply and Sewerage Board constituted under “*The Metropolitan Water Supply and Sewerage Acts, 1909 to 1921,*” and any Act amending or in substitution for those Acts, shall be dissolved, and that thereupon certain provisions in the said “*The City of Brisbane Act of 1924*” set out shall be applicable, and that the Governor in Council shall by the same Order in Council declare, adjust, and determine—

- (a) The enactments of the aforesaid Acts which shall apply to and be in force within the City and shall be observed and administered by the Council until the Council has made ordinances in that behalf: Provided that such modifications, whether by alteration or enlargement of any such enactments, may be made by such order as to the Governor in Council seems expedient in order to meet the circumstances; and such enactments as so modified shall apply to and be in force within the City and be observed and administered by the Council until the Council has made ordinances in that behalf;
- (b) Any rights, claims, and matters and all questions and disputes which are necessary or proper to be declared, adjusted, and determined, whether as between the dissolved Board and any Local Authority or local Governing Body, or as between the dissolved Board and the Treasurer or any State Department:

Now, therefore, I Sir THOMAS HERBERT JOHN CHAPMAN GOODWIN, the Governor aforesaid, by and with the advice of the Executive Council, do hereby order and declare that the Second day of April, 1928, shall be and is hereby fixed as the date on

which the said the Metropolitan Water Supply and Sewerage Board shall be dissolved: And I do further order and declare that the enactments of “*The Metropolitan Water Supply and Sewerage Acts, 1909 to 1924*,” set out in the Schedule hereto, with the modifications therein appearing, and all Orders in Council, Regulations, and By-laws made under the said Acts and in force immediately prior to the date of this Order in Council, with all necessary alterations, and so far as the same are applicable, shall apply to and be in force within the City and shall be observed and administered by the Council until the Council has made ordinances in that behalf.

SCHEDULE.

Section 4, with the deletion of the definitions of “Dissolved Board,” “Elections Act,” “Elector,” “Electoral District,” “President,” “Public Works Land Resumption Act,” “Ratepayer,” and “Secretary,” also with the substitution of the following definitions for the definitions of “Board,” “Minister,” and “This Act,” heretofore appearing in the said Act, and with the addition of the following definitions of “Council,” “Engineer,” and “Mayor”:—

“Board”—The Metropolitan Water Supply and Sewerage Board constituted under “*The Metropolitan Water Supply and Sewerage Acts, 1909 to 1924*”;

“Council”—Brisbane City Council constituted under “*The City of Brisbane Act of 1924*”;

“Engineer”—The Engineer or Board of Engineers (including each member of such Board) appointed by the Council to carry out the works under the provisions of this Act and any person from time to time appointed or delegated to perform the duties of Engineer;

“Mayor”—The Mayor, as defined by “*The City of Brisbane Act of 1924*”;

“Minister”—The Home Secretary or other Minister of the Crown for the time being charged with the administration of this Act;

“This Act”—“*The Metropolitan Water Supply and Sewerage Acts, 1909 to 1924*,” and all Proclamations, Orders in Council, Regulations, Rules, By-laws, and notices made or given thereunder as modified by this Order in Council:—

and with the substitution of the word “Council” for the word “Board” wherever the same occurs in any of the other definitions in the said section, and with the substitution of the word “Mayor” for the word “President” in the definition of the word “Authorised.”

Section 5 modified to read as follows:—

5.(1) All proceedings and things lawfully had or done by the Board under or in pursuance of “*The Metropolitan Water Supply and Sewerage Acts, 1909 to 1924*,” shall be and continue to be of the same force and effect as if this Order in Council had not been made.

(2) All By-laws heretofore made under “*The Metropolitan Water Supply and Sewerage Acts, 1909 to 1924*,” and still remaining unrepealed, shall be and be deemed to have been valid, and shall remain in force until they are repealed or amended by ordinance or otherwise under this Act.

Section 6 modified as follows:—

6.A(1) For the effective administration of this Act there shall be established as soon as conveniently may be by the Council a Department of the Council, to be called “The Water Supply and Sewerage Department,” which shall be under the sole control of the Engineer appointed under this Act.

(2) The Council shall, with all reasonable despatch from time to time, appoint an engineer for a term not exceeding seven years. Each and every engineer shall hold a degree or diploma in engineering granted by a recognised University within the British Dominions, or shall be an Associate or Member or Fellow of a recognised Engineers’ Institute Association or Society, and in every case shall have had experience in Water Supply and Sewerage and also administrative experience.

(3) The engineer shall not act as a director or auditor or in any other capacity take part in the management of any Bank, Joint Stock Company, or other financial institution, or of any trade or business, or require or hold any interest in any land which is or may be required to be acquired, taken, or occupied for the purposes of this Act; and in any such case shall be disqualified from holding the office of engineer.

(4) Each and every engineer shall during his continuance in office receive an annual salary to be fixed by the Council.