

SOUTH AUSTRALIA

SEWERAGE ACT 1929

This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at 2 June 1994.

It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.

SUMMARY OF PROVISIONS

PART 1 PRELIMINARY

1. Short title
2. Arrangement of Act
3. Acts consolidated
4. Interpretation
5. Acquisition of land
- 5A. Validation of certain sewerage rates, etc.

PART 2 FINANCE

6. Interest on sewers loans
7. Application of sewerage rates and payment of maintenance expenses
8. Payments to be made on account of Minister
9. Annual accounts to be published

PART 3 INCORPORATION AND POWERS OF THE MINISTER

12. Governor may appoint officers
13. Regulations
14. Undertaking to vest in Minister
15. Street drains to be under control of Minister
16. Minister not to be personally liable
17. Minister may delegate his powers
- 17A. Power to lease and sell surplus land or property

PART 3A SANITARY PLUMBERS EXAMINING BOARD AND PLUMBING ADVISORY BOARD

- 17B. Sanitary Plumbers Examining Board
- 17C. Plumbing Advisory Board

PART 4 CONSTRUCTION, MAINTENANCE, AND EXTENSION OF THE UNDERTAKING

18. Drainage area
19. Minister may purchase or lease land
20. Minister may construct sewers
21. Minister may construct dams
22. Position of dams
23. Power to construct accommodation works
24. Power to make roads
25. Power to break up streets
26. Notice to be served before breaking up streets
27. Street not to be broken up except under superintendence
28. Streets broken up to be reinstated without delay
29. Compensation for delay in reinstating streets
30. In certain cases parties other than the Minister may reinstate
31. Water and gas pipes to be altered when necessary
- 31A. Powers of entry, survey, etc.
32. Minister to keep sewers cleansed
33. Drains, etc., to be provided by owner or occupier
34. Responsibilities of owner and occupier when excavating street, etc.
35. Construction, etc., of new drains, etc., not to be undertaken without authority
36. Waste material not to be discharged onto land or into pit, etc.
42. Owners beyond drainage area
43. Minister may make agreements
45. Ventilators may be attached to buildings
46. Certain work may be carried out by owner
47. Capital contribution where capacity of undertaking increased

Sewerage Act 1929

PART 5
PROVISIONS FOR THE PROTECTION OF THE DRAINAGE WORKS

- 49. Notice of building, etc., to be given to Minister
- 50. Power to pull down buildings
- 51. Power of inspection
- 52. Penalties for encroachment
- 53. Duty to give notice before paving street, etc.
- 54. Prohibition of discharge of certain material into sewer
- 55. Rain water not to be admitted to sewer without Minister's consent
- 56. Work to be carried out by owner or occupier on Minister's order
- 57. Penalty for destroying sewers or fittings
- 58. Penalty for interference with works
- 59. Penalty for obstruction of officers, etc.
- 60. Obstruction of works by occupiers
- 61. Power to disconnect drains

PART 6
RATES

- 65. Exemption from sewerage rates
- 66. Government lands to be assessed
- 73. Determination of rates
- 74. Recovery not to be delayed
- 75. Power of Minister to fix minimum sewerage rates
- 76. Time for publication of notices
- 77. Power to reduce scale of sewerage rates
- 78. Initiation of liability to rates
- 78A. Sewerage charges before rates are payable
- 79. Power to make rates payable quarterly
- 80. Service of notice of amount due to Minister and method of recovery thereof
- 81. When several premises drained by one drain each owner or occupier to pay
- 82. Collector may collect rents when sewerage rates in arrear
- 83. Reimbursement of rates payable by owner paid by tenant, and rates payable by tenant paid by owner
- 84. Rates paid by tenant
- 85. Recovery of water rates and sewerage rates together where both included in one notice

PART 6A
POWER TO LEASE DRAINAGE WORKS

- 85A. Power to lease
- 85B. Power to accept surrenders
- 85C. Powers of lessees
- 85D. Rating powers of lessees

PART 7
LEGAL PROCEDURE

- 92. Power to distrain for sewerage rates in arrear
- 93. Amounts due to Minister to be a charge on the land
- 94. Lands may be sold when rates, etc., in arrear
- 95. Persons causing offences liable
- 96. Power to Minister to apportion payments
- 97. Recovery of moneys due to Minister
- 99. Appropriation of moneys recovered under this Act
- 100. *Gazette* to be evidence in certain cases
- 100AA. Certified plan to be evidence of drain
- 100A. Certificate of Minister
- 101. Service of notices
- 103. Minister may remit fines
- 104. Proceedings against persons acting under this Act
- 105. Tender of amends
- 106. Summary proceedings

SCHEDULE 1
Acts Repealed

SCHEDULE 2
Validation of Notices

APPENDIX
LEGISLATIVE HISTORY

SEWERAGE ACT 1929

being

Sewerage Act 1929 No. 1910 of 1929
[Assented to 30 October 1929]

as amended by

Statute Law Revision Act 1936 No. 2293 of 1936 [Assented to 8 October 1936]
Sewerage Act Amendment Act 1946 No. 48 of 1946 [Assented to 19 December 1946]
Sewerage Act Amendment Act 1953 No. 27 of 1953 [Assented to 3 December 1953]
Sewerage Act Amendment Act 1955 No. 24 of 1955 [Assented to 24 November 1955]
Sewerage Act Amendment Act 1960 No. 65 of 1960 [Assented to 24 November 1960]
Sewerage Act Amendment Act 1962 No. 51 of 1962 [Assented to 15 November 1962]
Statutes Amendment (Waterworks and Sewerage) Act 1966 No. 40 of 1966 [Assented to 25 August 1966]
Sewerage Act Amendment Act 1967 No. 47 of 1967 [Assented to 19 October 1967]
Sewerage Act Amendment Act 1969 No. 61 of 1969 [Assented to 4 December 1969]¹
Sewerage Act Amendment Act 1970 No. 53 of 1970 [Assented to 10 December 1970]
Statutes Amendment (Valuation of Land) Act 1972 No. 79 of 1972 [Assented to 5 October 1972]²
Rates and Taxes Remission Act 1974 No. 16 of 1974 [Assented to 4 April 1974]³
Sewerage Act Amendment Act 1974 No. 40 of 1974 [Assented to 11 April 1974]⁴
Statute Law Revision Act 1975 No. 24 of 1975 [Assented to 27 March 1975]
Statutes Amendment (Rates and Taxes Remission) Act 1975 No. 98 of 1975 [Assented to 20 November 1975]⁵
Statutes Amendment (Rates and Taxes Remission) Act 1977 No. 55 of 1977 [Assented to 15 December 1977]⁶
Statutes Amendment (Water and Sewerage Rating) Act 1981 No. 10 of 1981 [Assented to 5 March 1981]⁷
Statutes Amendment (Valuation of Land) Act 1981 No. 29 of 1981 [Assented to 19 March 1981]⁸
Sewerage Act Amendment Act 1984 No. 16 of 1984 [Assented to 3 May 1984]⁹
Valuation of Land Act Amendment Act 1984 No. 88 of 1984 [Assented to 29 November 1984]¹⁰
Rates and Land Tax Remission Act 1986 No. 78 of 1986 [Assented to 4 December 1986]¹¹
Sewerage Act Amendment Act 1987 No. 38 of 1987 [Assented to 23 April 1987]¹²
Sewerage Act Amendment Act 1988 No. 23 of 1988 [Assented to 21 April 1988]¹³
Statutes Amendment (Waterworks and Sewerage) Act 1991 No. 51 of 1991 [Assented to 22 November 1991]¹⁴
Statutes Amendment (Waterworks and Sewerage) Act 1994 No. 33 of 1994 [Assented to 2 June 1994]¹⁵

¹ Came into operation 21 May 1970: *Gaz.* 21 May 1970, p. 1841.

² Came into operation 1 June 1972: s. 2.

³ Came into operation 1 July 1973: s. 2.

⁴ Came into operation 1 July 1973: s. 2.

⁵ Came into operation 1 July 1975: s. 2.

⁶ Came into operation 1 July 1978: s. 2.

⁷ Came into operation 1 July 1980: s. 2.

⁸ Came into operation 30 June 1981: *Gaz.* 4 June 1981, p. 1640.

⁹ Came into operation 17 May 1984: *Gaz.* 17 May 1984, p. 1159.

¹⁰ Came into operation 11 July 1985: *Gaz.* 4 July 1985, p. 6.

¹¹ Came into operation 1 April 1987: *Gaz.* 26 March 1987, p. 702.

¹² Came into operation 1 July 1987: *Gaz.* 14 May 1987, p. 1248.

¹³ Came into operation 1 August 1988: *Gaz.* 21 July 1988, p. 420.

¹⁴ Ss. 3(e) and 4(b), (g) came into operation 1 July 1991: s. 2(1); remainder of Act came into operation on assent: s. 2(2).

¹⁵ Came into operation 1 July 1987: s. 2.

NOTE:

- Asterisks indicate repeal or deletion of text.
- For the legislative history of the Act see Appendix. Entries appearing in the Appendix in bold type indicate the amendments incorporated since the last reprint.

An Act to consolidate certain Acts providing for the sewerage and cleansing of the metropolitan area and other places.

The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY**

Short title

1. This Act may be cited as the *Sewerage Act 1929*.

Arrangement of Act

2. The provisions of this Act are arranged as follows:—

PART 1—Preliminary.

PART 2—Finance.

PART 3—Incorporation and Powers of the Minister.

PART 4—Construction, Maintenance, and Extension of the Undertaking.

PART 5—Provisions for the Protection of the Drainage Works.

PART 6—Rates.

PART 6A—Power to Lease Drainage Works.

PART 7—Legal Proceedings.

Acts consolidated

3. This Act is a consolidation of the Acts mentioned in the schedule hereto, and the said Acts are hereby repealed.

Interpretation

4. (1) In this Act, except when inconsistent with the context—

* * * * *

"**country drainage area**" means any drainage area other than the Adelaide drainage area;

"**drain**" means any drain of, and used for the drainage of one building only, or of premises within the same curtilage, and made merely for the purpose of communicating with a cesspit or like receptacle for drainage, or with a sewer into which the drainage of two or more buildings or premises occupied by different persons is conveyed;

"**drainage area**" means all land to which, immediately before the passing of this Act, the Acts hereby repealed applied, and includes all other land declared by proclamation made under this Act to form the whole or part of a drainage area;

"**equipment**" includes appliances and apparatus;

"**fittings**" includes cocks, valves, cisterns, water pipes, traps, syphons, manholes, lampholes, ventilators, entrances, and other apparatus;

"**land**" includes premises;

* * * * *

"**owner**" includes the person for the time being receiving the rent of the lands in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive the same if the land were let at a rent;

Sewerage Act 1929

"**payment day**" means the day on which sewerage rates are payable upon land within a drainage area pursuant to the provisions of section 79 of this Act;

"**premises**" means any house and any public or private building whatsoever, and any part of any house or building, and any garden, stable, yard, or other offices used together or in connection with any house or building, and every part thereof;

"**sewer**" means sewer or drain of every description, except a drain as hereinbefore defined;

"**street**" includes any square, court, alley, highway, bridge, lane, road, thoroughfare, passage, or place;

"**sewerage rates**" means rates made and levied under the provisions of this Act or any Act hereby repealed;

* * * * *

"**undertaking**" means the sewers, drains, and other works connected therewith, authorised by this Act or any Act hereby repealed to be constructed and maintained, and includes all fittings laid down or fixed by the Minister, and all land held or used by him for the purposes of this Act;

"**vacant land**" means unoccupied land which is not built upon and which is not appurtenant to, or used in connection with, any building, whether the said land is used for the purpose of depasturing cattle thereon or otherwise.

(2) For the purposes of this Act, a reference to connection to or disconnection from the undertaking includes a reference to connection to or disconnection from a drain or pipe through which waste material may be discharged into the undertaking.

Acquisition of land

5. The Minister may, subject to and in accordance with the *Land Acquisition Act 1969-1972*, acquire land for the purposes of this Act and the construction, maintenance and extension of the undertaking.

Validation of certain sewerage rates, etc.

5A. (1) All sewerage rates levied and payable on land or premises or purporting to have been so levied and payable pursuant to this Act as in force before the commencement of the *Sewerage Act Amendment Act 1970*, shall be deemed to be and always to have been as validly and effectually levied and payable as they would have been had the amendments effected to this Act by the *Sewerage Act Amendment Act 1970*, come into operation on the first day of July, 1970.

(2) Any regulation made or purporting to have been made pursuant to powers conferred by this Act shall be deemed to be and always to have been as validly and effectually made as it would have been had the amendment effected to this Act by section 4 of the *Sewerage Act Amendment Act 1970*, come into operation on the day upon which this Act came into operation.

(3) No rate declared in respect of any land within a drainage area, either before or after the enactment of this subsection, shall be held to be invalid on the ground that it differs from a rate declared in respect of any other land either in that same drainage area, or in some other drainage area.

**PART 2
FINANCE**

Interest on sewers loans

6. All interest becoming due in respect of sewers loans shall be paid out of the general revenue of the State.

Application of sewerage rates and payment of maintenance expenses

7. (1) All moneys derived from sewerage rates shall be paid to the Treasurer for the public purposes of the State.

(2) The Treasurer shall apply such moneys as are provided by Parliament for that purpose in payment of all expenses of and connected with the working and maintenance of the undertaking.

Payments to be made on account of Minister

8. The Treasurer may, under the authority of the Minister, pay out of the moneys at his disposal under this Act—

- (a) any sum due by the Minister under any agreement lawfully made for, and in accomplishing, any of the purposes of this Act; and
- (b) any sum recovered against the Minister by any process of law; and
- (c) any sum which by any order, made or purporting to be made under this Act, the Minister is directed to pay for or by way of compensation, damages, costs, fines, penalties, forfeitures, or otherwise howsoever.

Annual accounts to be published

9. (1) In every year the Minister shall cause to be prepared for the financial year preceding, under the distinct heads of receipts and expenditure, an account in abstract of all moneys advanced to him, and of all sewerage rates and other moneys levied or received by him, for the purposes of the undertaking, and also of all moneys expended by him for the said purposes, and of the manner in which the said moneys were expended.

(2) Every such account shall contain a statement of the balance of such account, and shall be duly audited and certified by the Auditor-General.

(3) A true copy of every such account in abstract shall be published in the *Government Gazette* on or before the thirtieth day of June in the year in which it is prepared.

Sewerage Act 1929

PART 3
INCORPORATION AND POWERS OF THE MINISTER

Governor may appoint officers

12. The Governor may appoint and employ for the purposes of this Act such engineers, managers, secretaries, clerks, collectors, messengers, and other officers as to him seems fit.

Regulations

13. (1) The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act, and, without limiting the generality of that power, the Governor may make regulations:—

- I. For protecting the undertaking, and every part thereof, from trespass or injury:
II. For regulating, in regard to drainage, the plans, inclination, and the materials of the pavement and roadway of public and private streets, and the plans and levels of sites for buildings, and the levels of the bottoms of cellars and the lowest parts of buildings, and the drainage of streets into sewers:
III. For regulating the dimensions, form, and mode of construction, and the materials, and the keeping, cleaning, and repairing of the pipes, drains, and other means of communicating with sewers, and the fittings and apparatus connected therewith for the emptying, cleansing, closing, and filling up of sinks, cesspools, and privies, and for such other works of cleansing and of removing and disposing of refuse as the Minister is authorised to perform:
IIIA. For regulating the—
(a) specifications, construction, number and position of pipes, fittings and equipment connected to the undertaking;
(b) installation and inspection of pipes, fittings and equipment connected to the undertaking:
IV. For regulating or preventing the sale or use of pipes, fittings or equipment that are capable of being connected to the undertaking:
V. For regulating the conduct of the officers, workmen, and servants appointed, employed, or hired under and for the purposes of this Act, and for the making, levying, and collecting of sewerage rates, and for providing for the due management and use in all respects of the property of the Minister and of the undertaking, and for its construction, completion, maintenance, and extension, and for carrying into effect the purposes of this Act generally:
VII. For fixing or empowering the Minister to fix charges or fees (including minimum charges or fees)—
(a) for the provision of works or services by the Minister; and

(b) for inspections made by the Minister pursuant to this Act or at the request of an owner or occupier of land; and

(c) otherwise in relation to the administration of this Act:

VIIA. Empowering the Minister to release a person from, or defer, the obligation to pay part or all of an amount due under this Act or under an agreement made under this Act:

VIII. For fixing scales of costs and charges for the alteration of levels of topstones and castings of lampholes, inspection openings, airshafts and manholes, or other similar work, to conform to the surface levels of the roadworks.

(2) A regulation made under subsection (1) may—

(a) empower the Minister to authorise the sale or use of pipes, fittings or equipment, subject to such conditions (if any) as he thinks fit, and to revoke or vary an authorisation previously given by him; and

(b) prescribe specifications, standards and procedures by reference to specifications, standards or procedures prescribed, from time to time, by the Minister or published, from time to time, by a body or person named in the regulation.

(2a) Charges or fees for the provision of works or services by the Minister fixed under this section shall not be invalid by reason of the fact that, in a particular case or class of case, the charges or fees so fixed (or the aggregate of those charges or fees where more than one is payable in respect of the same works or service) exceed the cost to the Minister of providing the works or service.

(3) Specifications, standards or procedures prescribed by the Minister by reference to specifications, standards or procedures published, from time to time, by a person or body named by the Minister shall be deemed to have been validly prescribed by him for the purpose of the operation of a regulation pursuant to subsection (2)(b).

(4) The regulations may impose a penalty not exceeding two thousand dollars for contravention of, or failure to comply with, a regulation.

(5) Where a person contravenes or fails to comply with a regulation, the Minister may, by notice in writing, require him to desist from the contravention or remedy the default and if he fails to comply with the notice he shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars for every day for which that failure continues.

Undertaking to vest in Minister

14. The whole of the undertaking, and all the materials and things which at any time are part thereof, are vested in the Minister, and shall be deemed to be his property, and shall be held and used by him for the purposes of this Act.

Street drains to be under control of Minister

15. The exclusive control of all gutters, shoots, grates, and openings in the streets, within a drainage area, communicating directly or indirectly with the sewers vested in the Minister, by whomsoever the said gutters, shoots, grates, and openings have been made or are maintained or managed, shall belong to and the same is hereby vested in the Minister.

Sewerage Act 1929

Minister not to be personally liable

16. The Minister shall not be personally liable to pay or make good any sum of money which is at any time recoverable under this Act from him, or is due by him as Minister or recovered as damages for any act done, or omitted to be done, by him in the *bona fide* belief that he is acting in pursuance of this Act.

Minister may delegate his powers

17. (1) The Minister may authorise such persons as he thinks proper to do all and any of the acts, matters, and things which the Minister is hereby authorised or required to do.

(2) Every person so authorised shall have and enjoy all such and the like powers as are hereby conferred on the Minister enabling him to do such acts, matters, or things respectively, and all such acts, matters, and things, when done under the said authority, shall be as valid and effectual as if they had been done by the Minister.

(3) Every person so authorised shall have and enjoy, in respect of every such act, matter, or thing so done by him, all such immunities from personal liability as the Minister would have and enjoy if he had done the act, matter, or thing.

Power to lease and sell surplus land or property

17A. (1) The Minister may demise any land held or used by him for the purposes of this Act and which he does not immediately require for the purposes of this Act, for such period, at such rent, and upon such conditions as he thinks fit, and may sell or otherwise dispose of any such land or other property, which he does not further require for the purpose of the undertaking, and may transfer or convey such land or other property to the purchaser, or as he directs.

(2) Any money accruing from the sale or other disposition of any property sold or disposed of pursuant to this section shall be paid by the Minister to the Treasurer, and shall be carried by him to the account of the Minister for the purposes of this Act.

PART 3A
SANITARY PLUMBERS EXAMINING BOARD AND PLUMBING
ADVISORY BOARD

Sanitary Plumbers Examining Board

17B. (1) The Sanitary Plumbers Examining Board continues in existence.

(2) The Governor may, by regulation, prescribe—

- (a) powers and functions of the Board;
- (b) provisions for the appointment of members and deputy members of the Board and any other matters relating to membership of the Board;
- (c) procedures to be followed at meetings of the Board;
- (d) fees payable in relation to—
 - (i) examinations conducted by the Board;
 - (ii) registration by the Board;
 - (iii) the performance by the Board of any of its other functions;
- (e) provisions empowering the Minister to take disciplinary action against a person registered by the Board and for that purpose to impose conditions on the registration or to vary, suspend or cancel the registration;
- (f) any other matters that are necessary or expedient for the continued operation of the Board.

Plumbing Advisory Board

17C. (1) The Plumbing Advisory Board continues in existence.

(2) The Governor may, by regulation, prescribe—

- (a) powers and functions of the Board;
- (b) provisions for the appointment of members and deputy members of the Board and any other matters relating to membership of the Board;
- (c) procedures to be followed at meetings of the Board;
- (d) any other matters that are necessary or expedient for the continued operation of the Board.

Sewerage Act 1929

**PART 4
CONSTRUCTION, MAINTENANCE, AND EXTENSION OF THE UNDERTAKING**

Drainage area

18. (1) The Governor may from time to time by proclamation declare that any land defined in the proclamation shall constitute a drainage area and the land shall, for all the purposes of this Act, be deemed to be a drainage area to which this Act applies.

(2) The Governor may by proclamation add to or otherwise alter the boundaries of any such drainage area and may also, in like manner, revoke any proclamation made under this section, as to the whole or any part of any such drainage area, in which case the drainage area shall be abolished or altered according to the tenor of the proclamation.

(3) A proclamation under this section shall take effect from a date (either before or after the date of the proclamation) specified in the proclamation.

Minister may purchase or lease land

19. The Minister may purchase or take on lease for such term as he thinks fit, with or without right of purchase—

- (a) any land which he thinks necessary for the purposes of this Act or for the formation or protection of any works which he is authorised to execute under this Act; and
- (b) any sewage farms, offices, buildings, yards, stations or places for deposit of refuse, material, or things, or any land for the formation or erection of any such sewage farms, offices, buildings, yards, stations, or places for deposit as aforesaid.

Minister may construct sewers

20. (1) The Minister may at any time, subject to the provisions herein contained—

- (a) make and construct sewers, drains, and works with all necessary fittings, of such construction and in such manner as he thinks expedient, for the purpose of effectually draining the drainage area; and
- (b) carry any such sewers and drains through, across, or under any public or private street, and any cellar or vault which may be under the pavement of any public or private street, and into, through, or under any land whatsoever, making compensation for any damage done thereby, as herein provided; and
- (c) break up any street, and the soil, pitchings, and pavements thereof; and
- (d) excavate and sink trenches for the purpose of laying down, making, and constructing any such sewers and drains therein; and
- (e) cause any such sewers to discharge upon such land as may be acquired by the Minister for that purpose, or cause any such sewers to communicate with the sea as the Minister may think expedient; and
- (f) from time to time open, cleanse, and repair any such sewers, drains, and fittings, and alter the position or construction thereof; and
- (g) make any drains to any main sewer from any land within the drainage area for the purpose of cleansing and draining any such land by means of such drains and sewers; and

- (h) do all such other acts, matters, and things as he from time to time deems necessary and proper for making, amending, attaching, altering, repairing, completing, or improving any such sewers, drains, fittings, or other works for the purposes of this Act.

(2) The Minister shall build and construct the said sewers, drains, fittings, and other works in a sufficient and effectual manner for accomplishing the purposes of this Act.

Minister may construct dams

21. The Minister may make and erect such dams and reservoirs as he thinks expedient across and in the bed of the River Torrens, or elsewhere, for the purpose of retaining water to flush and cleanse the sewers and drains for the time being vested in the Minister, and may lay pipes therefrom for the purpose of conducting water to all or any of the said sewers and drains.

Position of dams

22. Such dams and reservoirs may be erected at such points in the bed of the said river or at such other places as the Minister thinks proper, and may be constructed of such materials and in such manner as the Minister thinks expedient.

Power to construct accommodation works

23. (1) The Minister shall construct and erect all works necessary for making good the interruption caused by the exercise of any of the said powers to the possession or enjoyment of any land adjoining or near any part of the undertaking, or otherwise necessary for the accommodation of any such land.

(2) If any dispute arises with respect to the construction of any such accommodation works, the Minister or any party to the dispute may apply to the Land and Valuation Court for the determination of the matters in dispute.

(3) Upon the hearing of an application under subsection (2) of this section the Land and Valuation Court may make such orders as it considers just.

Power to make roads

24. The Minister may—

- (a) make and maintain, upon or over any land which has been taken or used for the purposes of this Act and the undertaking, such roads or other like means of communication as he deems necessary or proper for effectually executing the said purposes and making all proper approaches to the undertaking, whether the approaches are permanent or needed only for a temporary purpose:
- (b) repair, amend, and fence in the said roads or other means of communication:
- (c) cause all or any of them to be used exclusively for those purposes, or, at his discretion, permit the public or any particular person to use all or any of them, upon such terms and subject to such conditions as he thinks proper to make or impose:
- (d) dedicate all or any such roads or other means of communication permanently to the use of the public; but the public or any particular person shall not acquire any right to use, or any privilege or easement in respect to all, or any of them, save as are expressly granted or dedicated by the Minister in conformity with this section.

Sewerage Act 1929

Power to break up streets

25. (1) For the purpose of constructing, extending, and maintaining the undertaking, the Minister, under such superintendence as is hereinafter specified, may open and break up any street and the soil and pavement thereof, and any sewers, drains, or tunnels within or under the street, and may lay down and place such sewers, drains, fittings, and other works and engines as he deems necessary, and repair, alter, or remove any of them, and for the aforesaid purposes may remove and use all earth and materials in and under such street, and do all other acts which he deems necessary or expedient for constructing and maintaining the undertaking, and he shall do as little damage as can be in the execution of the powers hereby granted.

(2) The Minister shall pay compensation for any damage that may be done in the execution of his powers under subsection (1) of this section and, in the event of a dispute arising between the Minister and a claimant for compensation under this section, the Minister or the claimant may apply to the Land and Valuation Court for the determination of the matters in dispute.

(3) The Land and Valuation Court, upon the hearing of an application under subsection (2) of this section, may make such orders as it considers just.

Notice to be served before breaking up streets

26. (1) Before the Minister opens or breaks up any street, sewer, drain, or tunnel he shall give to the persons under whose control or management the same is, or to their clerk, surveyor, or other officer, notice in writing of his intention to open or break up the same.

(2) The notice shall be given not less than three clear days before beginning the opening or breaking up, except in such cases of emergency as in the opinion of the Minister justify him in omitting to give the notice, and in every such case he shall give the notice as soon as he conveniently can after the beginning of the opening or breaking up, or after the necessity for the same has arisen.

Street not to be broken up except under superintendence

27. No such street, sewer, drain, or tunnel shall, except in the case of such emergency as aforesaid, be opened or broken up except under the superintendence of the persons having the control or management thereof, or their officer, and according to such plan as within the three days next after the receipt of the notice is proposed by the said persons or their officer and approved by the Minister, or, in case of any difference respecting such plan, according to such plan as is determined by the Surveyor-General or other competent officer to be appointed by the Governor. In case such a difference has arisen, the Minister shall not commence any such work until some plan has been determined upon in that behalf by the Surveyor-General or other competent officer appointed by the Governor as aforesaid: Provided always, that if the persons having such control or management as aforesaid, or their officer, after having received such notice as is mentioned in the next preceding section—

- (a) fails to attend at the time fixed for the opening of any such street, sewer, drain, or tunnel; or
- (b) does not, within the three days next after receipt by them of the said notice, propose any plan for breaking up or opening the same; or
- (c) refuses or neglects to superintend the operation,

the Minister may perform the work specified in the said notice without the superintendence of the said persons or their officer.

Streets broken up to be reinstated without delay

28. When the Minister opens or breaks up any street or any sewer, drain, or tunnel, he shall—

- (a) with all convenient speed complete the works for which the same has been broken up, and fill in the ground and reinstate and make good the road or pavement or the tunnel so opened or broken up, and carry away the rubbish occasioned thereby; and
- (b) keep the road or pavement which has been so opened or broken up in good repair for three months after replacing and making good the same, and for such further time (if any) not being more than twelve months in the whole, as the soil so opened or broken up continues to subside; and
- (c) at all times, whilst any such road or pavement is so opened or broken up, cause the same to be fenced and guarded, and cause a light sufficient for the warning of passengers to be set up and kept thereagainst every night during which the road or pavement continues open or broken up.

Compensation for delay in reinstating streets

29. (1) If the Minister—

- (a) opens or breaks up any street, or any sewer, drain, or tunnel, without giving such notice as required by this Act; or
- (b) makes any unnecessary delay in completing any such work or filling in the ground or reinstating and making good the road or pavement so opened or broken up, or in carrying away the rubbish occasioned thereby; or
- (c) neglects to cause the place where the road or pavement has been broken up to be fenced, guarded, and lighted,

he shall make to every interested person reasonable compensation for any damage actually sustained by that person through or in consequence of any such act, delay, or neglect.

(2) Where the amount of compensation payable under subsection (1) of this section is in dispute, the Minister or any party to the dispute may apply to the Land and Valuation Court for a determination of the matters in dispute.

(3) The Land and Valuation Court, upon the hearing of an application under subsection (2) of this section may make such orders as it considers just.

In certain cases parties other than the Minister may reinstate

30. (1) If the Minister, having, for the purposes of the undertaking, opened or broken up any street—

- (a) keeps the same open or broken up longer than is reasonably necessary, or makes any unnecessary delay in filling in the ground or in reinstating and making good the road or pavement of any such street, or in carrying away the rubbish occasioned thereby; or
- (b) neglects to cause the place where the road or pavement has been opened or broken up to be fenced, guarded, and lighted while it is so opened or broken up,

the persons having the control or management of the street in respect of which the delay, omission, or neglect has taken place may cause to be executed or done the work or act so delayed, omitted, or neglected to be executed or done; and all the reasonable expense of executing or doing the same shall be reimbursed to them by the Minister.

Sewerage Act 1929

(2) Where a claim is made for the reimbursement of expenses under subsection (1) of this section and a dispute arises in relation to that claim, the Minister or any party to the dispute may apply to the Land and Valuation Court for determination of the matters in dispute.

(3) The Land and Valuation Court, upon the hearing of an application under subsection (2) of this section, may make such orders as it considers just.

Water and gas pipes to be altered when necessary

31. (1) If the Minister at any time deems it necessary for the purposes of the undertaking to raise, sink, or otherwise alter the situation of any water or gas pipes, mains, plugs, or other waterworks or gasworks laid in or under any street, he may, by notice in writing, require the person to whom the pipes, mains, plugs or works belong to raise, sink, or otherwise alter the situation of the same in such manner and within such reasonable time as is specified in the notice.

(2) The expenses attendant upon or connected with any such alterations shall be paid by the Minister.

(3) If any such notice is not complied with the Minister may make the alterations required.

(4) No such alteration shall be required or made which will permanently injure any such pipes, mains, plugs, or works, or prevent the water or gas from flowing as freely and conveniently as usual.

Powers of entry, survey, etc.

31A. (1) For the purpose of ascertaining whether it is expedient to construct any sewerage system the Minister or any person authorised by him may—

- (a) enter upon any land after giving not less than two days' notice to the owner or occupier of that land;
- (b) survey and take levels of any land;
- (c) probe, bore, or sink pits, on or in any land or otherwise examine the soil thereof;
- (d) do anything necessary for ascertaining the suitability of the land for a sewerage system.

(2) This section shall apply to land within or outside a drainage area.

(3) The Minister shall compensate any person who suffers damage by reason of the exercise of the powers conferred by this section.

(4) The Land and Valuation Court may, upon the application of any person who claims to be entitled to compensation under this section, order the Minister to pay to that person such compensation as it considers just.

Minister to keep sewers cleansed

32. (1) The Minister shall cause the sewers which are at any time vested in him, and all private drains and sewers, to be constructed, covered, and kept so as not to be a nuisance or injurious to health, and to be properly cleared, cleansed, flushed, and emptied.

(2) For the purpose of such clearing, cleansing, flushing, and emptying, the Minister may construct or place, either above or underground, such reservoirs, sluices, engines, manholes, lampholes, ventilators, entrances, and other works as he thinks necessary, and may arrange for the supply of such quantity of water, at such times and such places, and in such manner, as he thinks fit, and may cause all or any of such sewers to communicate with and be emptied into such places as he thinks proper, and may cause the sewage and refuse therefrom to be collected for sale, or for any purpose whatsoever, but not so as to create a nuisance.

Drains, etc., to be provided by owner or occupier

33. (1) In order—

- (a) to provide for the removal of waste material from land in accordance with this Act; or
- (b) to improve the drains, fittings, equipment or works by means of which waste material is removed from land,

the Minister may, by notice in writing served on the owner or occupier of the land, require him, within the time stated in the notice, to carry out the work specified in the notice.

(2) A notice referred to in subsection (1) may require the person on whom it is served to—

- (a) install or construct in such locations as are specified in the notice;
- (b) connect to the undertaking;
- (c) alter or replace;
- (d) maintain, repair or cleanse,

such drains, fittings, equipment or works as are specified in the notice in the manner specified in the notice.

(3) The Minister may revoke or vary a notice referred to in subsection (1) by a subsequent notice in writing served on the owner or occupier of the land.

(4) A person who fails to comply with a notice served on him under this section is guilty of an offence and is liable to a penalty of one thousand dollars and to a further penalty of one hundred dollars for every day on which the failure continues.

(5) Where a person fails to comply with a notice served on him under this section, the Minister may take such action as is, in his opinion, necessary to fulfil the requirements of the notice but, in taking that action, he must not damage the land or the premises concerned to a greater extent than necessary.

(6) A person on whom a notice has been served under this section shall be liable for the costs incurred by the Minister in taking action under subsection (5) but where the Minister has served a notice under this section on two or more persons he shall not recover a sum that exceeds the amount of those costs.

Responsibilities of owner and occupier when excavating street, etc.

34. (1) Where the owner or occupier of land does any work in a street adjoining that land in relation to a fitting or drain connected or that is intended to be connected to the undertaking he shall in relation to that work be subject to those provisions of this Act to which the Minister would be subject if he were carrying out that work and, on failure to comply with any of those provisions, the owner or occupier concerned shall be liable to a penalty of five hundred dollars.

Sewerage Act 1929

(2) Where a person is in default under subsection (1), the Minister may take such action as is, in his opinion, necessary to remedy the default and the person in default shall be liable to the Minister for his costs in taking that action.

Construction, etc., of new drains, etc., not to be undertaken without authority

35. (1) No person shall—

- (a) install or construct any drain, fitting, equipment or works for connection to the undertaking; or
- (b) connect any drain, fitting, equipment or works to the undertaking or disconnect it from the undertaking; or
- (c) alter, remove or block any drain, fitting, equipment or works connected to the undertaking,

unless he has been required or authorised to do so by or under this Act or unless he has been authorised by the Minister to do so under this section.

(2) The Minister may attach such conditions as he thinks fit to an authorisation granted under this section and may vary or revoke an authorisation at any time.

(3) A person who contravenes subsection (1) or contravenes or fails to comply with a condition attached to an authorisation under subsection (2) shall be guilty of an offence.

Penalty: Five hundred dollars.

Waste material not to be discharged onto land or into pit, etc.

36. (1) After a drain connecting land to the undertaking has been installed or constructed, no person shall discharge, or permit the discharge of, any waste material that could be lawfully discharged into the undertaking by means of that drain—

- (a) on to that land or into a pit, well or tank dug or erected on that land; or
- (b) from that land on to neighbouring land or into a pit, well or tank dug or erected on neighbouring land,

unless he has been authorised to do so by the Minister.

(2) The Minister may attach such conditions as he thinks fit to an authorisation granted under this section and may vary or revoke an authorisation at any time.

(3) A person who contravenes subsection (1) or contravenes or fails to comply with a condition attached to an authorisation under subsection (2) shall be guilty of an offence.

Penalty: Five hundred dollars.

(4) Where a drain connecting land to the undertaking has been closed off or disconnected by the Minister pursuant to this Act, subsection (1) shall apply to the waste material that could have been lawfully discharged by means of that drain if it had not been closed off or disconnected.

* * * * *

Owners beyond drainage area

42. Any owner or occupier of any land adjoining or near to but beyond the limits of a drainage area may cause any drain or sewer from that land to communicate with any sewer made by or vested in the Minister, upon such terms and conditions as are agreed upon between the owner or occupier and the Minister.

Minister may make agreements

43. The Minister may, by agreement with the owner of land in a drainage area—

- (a) execute drainage works on the land connecting the land to a sewer; or
- (b) lend money to the owner for the execution of such works.

* * * * *

Ventilators may be attached to buildings

45. The Minister may cause any ventilating shaft, pipe, or tube for any sewer or drain to be attached to the exterior wall of any building within a drainage area: Provided that the mouth of every such shaft, pipe, or tube shall be at least 1.8 metres higher than any window or door situated within a distance of 9 metres therefrom.

Certain work may be carried out by owner

46. (1) Where a person who has applied to the Minister for the extension of a sewer or the connection of land to a sewer (being work for which the amount prescribed by this Act is the cost of the work estimated by the Minister) is dissatisfied with the Minister's estimate, the applicant may, subject to this section, arrange for the work to be carried out by a competent person of his or her choice.

(2) Where—

- (a) a person has applied to the Minister for the extension of a sewer to land that the applicant has divided, or proposes to divide, or for the connection of such land to a sewer; and
- (b) the regulations do not prescribe the amount, or the basis for determining the amount, payable for that work; and
- (c) the applicant is dissatisfied with the amount that the Minister wishes to charge for that work,

the applicant may, subject to this section, arrange for the work to be carried out by a competent person of his or her choice.

(3) Subsections (1) and (2) do not authorise the connection of the new work to the undertaking.

(4) The work must be designed by, or to the satisfaction of, the Minister and be carried out under the supervision, and to the satisfaction, of the Minister.

(5) The Minister will, at the request of the applicant, provide the applicant with plans and specifications of the proposed work.

(6) The applicant must pay the reasonable costs of the Minister for—

- (a) designing the work; and

Sewerage Act 1929

- (b) providing the necessary plans and specifications; and
- (c) connecting the work to the undertaking; and
- (d) supervising and inspecting the work,

but the applicant is not liable, subject to section 47, for any other charge or fee under this Act in respect of the work.

Capital contribution where capacity of undertaking increased

47. Where the Minister has decided to increase the capacity of the undertaking to cater for future demand for sewerage services in a particular area and—

- (a) the decision was made in response to an application for development authorisation for the division of land in that area; or
- (b) the decision was made in response to such an application or for any other reason and a person applies for development authorisation for the division of land in that area at any time after the Minister made the decision,

the applicant is liable to make a contribution to the Minister towards the cost of increasing the capacity of the undertaking.

(2) The amount of the contribution is an amount equivalent to that part of the cost of increasing the capacity of the undertaking that should, in the Minister's opinion, be attributed to the additional demand for sewerage services resulting from the division.

(3) If a proposed division of land does not proceed because—

- (a) the application for development authorisation lapses or is withdrawn; or
- (b) development authorisation for the division is refused or is subject to conditions that are unacceptable to the applicant,

any contribution paid to the Minister under this section must be refunded by the Minister.

(4) In this section—

"**cost**" of increasing the capacity of the undertaking means the estimated cost, or if the required work has been completed, the actual cost of the increase;

"**development authorisation**" means a development authorisation within the meaning of the *Development Act 1993* and includes a planning authorisation within the meaning of the *Planning Act 1982* and a certificate of approval issued under Part 2 Division 5 of the *Strata Titles Act 1988*;

"**division**" of land means division under Part 19AB of the *Real Property Act 1886* or by strata plan.

* * * * *

PART 5
PROVISIONS FOR THE PROTECTION OF THE DRAINAGE WORKS

Notice of building, etc., to be given to Minister

49. (1) Any person intending to build, rebuild or make extensions to any house, building or structure within a drainage area shall, at least fourteen days before beginning to dig or lay out the foundations thereof, give to the Minister written notice of such intention, together with full particulars of the levels or intended levels of the cellar or lowest floor, and of the situation or construction of the privies, cesspits, and drains to be built, constructed, or used in connection with the house, building or structure.

(2) No person shall begin to build, rebuild or make extensions to any such house, building or structure, or build or construct any such privy, cesspit, or drain, until the particulars so required to be stated have been approved by the Minister, who shall signify his approval or otherwise within fourteen days after receiving the said notice.

(3) Any person failing to deliver such notice as aforesaid, or either wholly or partially building, rebuilding, extending or constructing or causing to be either wholly or partially built, rebuilt, extended or constructed, any house, building, structure, privy, cesspit, or drain, without such approval as aforesaid, shall be liable to a penalty not exceeding five hundred dollars.

Power to pull down buildings

50. If any person builds, rebuilds, or constructs any house, privy, cesspit, or drain, in contravention of the last preceding section, the Minister may pull down or demolish the same, and the expenses of and incidental to the said demolition shall be recoverable from the said person in manner hereinafter provided.

Power of inspection

51. (1) A person authorised by the Minister may—

- (a) inspect any land and any sewers, drains, fittings, equipment or works on that land;
- (b) inspect solid, liquid and gaseous materials that are being or may be discharged from that land into sewers or drains forming part of or connected to the undertaking;
- (c) take samples of material of the same kind as material that, in his opinion, has been, or is likely to be, discharged from that land into sewers or drains forming part of or connected to the undertaking,

and for those purposes he may, at any reasonable time, enter upon that land.

(2) A person authorised under this section may, if in his opinion it is necessary or desirable, excavate land for the purpose of an inspection or taking samples of material.

Penalties for encroachment

52. (1) Every person who erects, constructs, or places any building, wall, bridge, fence, obstruction, annoyance, or encroachment in, upon, over, or under any sewer or drain, and every person who obstructs, fills in, closes up, or diverts any sewer or drain, without the previous consent in writing of the Minister shall be guilty of an offence.

Penalty: One thousand dollars.

Sewerage Act 1929

(2) The Minister may demolish and remove any such building, wall, bridge, fence, obstruction, annoyance or encroachment, and perform any works necessary for restoring or reinstating the sewer or drain so obstructed, filled in, closed up or diverted, and the person erecting the building, wall, bridge, or fence, or causing the obstruction, annoyance, or encroachment, or obstructing, filling in, closing up, or diverting the sewer or drain, as the case may be, shall also pay the expense of removing and abating the wall, bridge, fence, obstruction, annoyance, or encroachment, or of reopening, restoring, repairing, or reinstating any such sewer or drain obstructed, filled in, closed up, or diverted.

(3) The Minister may, by notice in writing served on a person who has committed an offence under subsection (1), require him to demolish and remove the building, wall, bridge, fence, obstruction, annoyance or encroachment concerned or reinstate the sewer or drain so obstructed, filled in, closed up or diverted.

(3aa) A person who fails to comply with a notice served on him under subsection (3) is guilty of an offence and is liable to a penalty of one thousand dollars and to a further penalty of one hundred dollars for every day on which the offence continues.

(3a) Where in any proceedings for an offence against this section, or for the recovery of expenses under this section, it is alleged that the defendant erected, constructed or placed any building, wall, bridge, fence, obstruction, annoyance or encroachment in, upon, over or under any sewer or drain without the consent in writing of the Minister, it shall be a defence that the defendant did not know and could not by the exercise of reasonable diligence have ascertained the position of the sewer or drain.

(4) Nothing herein contained shall extend to prevent or impede the maintenance, repair, or renewal of any buildings or works under which a sewer or drain is constructed, but so, nevertheless, that such maintenance, repair, or renewal shall not be carried out in such a manner as to injure or obstruct the sewer or drain.

Duty to give notice before paving street, etc.

53. (1) Before beginning—

- (a) to first lay the pavement or hard surface in any street; or
- (b) to relay the pavement or hard surface in any street; or
- (c) to widen or extend the pavement or hard surface in any street; or
- (d) to alter the level of any street; or
- (e) to construct or alter any footpaths, gutters, kerbing or water tables in any street; or
- (f) to construct or alter any drainage work in any street,

in which there is a sewer or sewerage work which is the property of the Minister, the person authorised or intending so to do shall give to the Minister fourteen days' notice thereof in writing giving details of the work to be carried out, including the nature and thickness of the pavement or hard surface proposed to be made or laid thereon, or of the other work proposed to be done as the case may be.

(2) The Minister shall within fourteen days after receiving such notice advise the person who gave the same of any extension to the undertaking proposed in the said street or of any resultant interference with the undertaking.

(3) Should any work referred to in subsection (1) of this section involve any alteration to the undertaking the person doing such work shall, subject to the provisions of subsection (6) of this section, pay to the Minister one half the actual cost of such alteration and of any damage resultant upon such work: Provided that in respect of any alteration for which a cost or charge is specifically provided by regulation such cost or charge shall be deemed to be the actual cost thereof.

(4) If information in accordance with the requirements of subsection (1) of this section has not been supplied the person carrying out the work shall pay the actual cost of the alterations to the undertaking, and of all damage resultant upon the work: Provided that in respect of any alteration for which a cost or charge is specifically provided by regulation such cost or charge shall be deemed to be the actual cost thereof.

(5) Should the alterations to the undertaking be of such a nature as to involve expense which in the opinion of the Minister will be excessive, then the Minister may confer with the person authorised to do such work to determine whether any variations to the work proposed under subsection (1) of this section would be advantageous to the parties.

(6) Should any work referred to in subsection (1) involve any alteration to the undertaking and the Minister is of the opinion that any part of the undertaking involved in or affected by such alteration should be replaced or enlarged, the cost of all materials requisite for such replacement or enlargement shall be borne by the Minister, but all other costs and charges shall be payable in accordance with this section.

Prohibition of discharge of certain material into sewer

54. (1) A person shall not discharge, or permit to be discharged, into a sewer or drain forming part of or connected to the undertaking any solid, liquid or gaseous material—

- (a) that is likely to damage or to be detrimental to the undertaking; or
- (b) that is a waste product of a prescribed business or activity; or
- (c) that has been prescribed by regulation as a material that may not be discharged into the undertaking; or
- (d) at a temperature or in a concentration that exceeds the temperature or concentration prescribed by regulation in relation to that material; or
- (e) at a rate that exceeds the rate fixed by the Minister in relation to that material; or
- (f) in a form that is prohibited by regulation.

(2) A person who contravenes a provision of subsection (1) is guilty of an offence.

Penalty: Five thousand dollars.

(3) The Minister may, by notice published in the *Gazette*, fix the rate at which material specified in the notice may be discharged into the undertaking and may, by subsequent notice published in the *Gazette*, vary or revoke a notice published under this subsection.

(4) The Minister may—

- (a) on the application of any person, authorise him to discharge waste material referred to in the authorisation into the undertaking;

Sewerage Act 1929

- (b) by notice in the *Gazette*, authorise the discharge of waste material referred to in the notice into the undertaking by members of the public generally or by members of a group referred to in the notice.

(5) The Minister may attach such conditions to an authorisation as he thinks fit and may vary or revoke an authorisation at any time.

(6) It shall be a defence to a prosecution for an offence against subsection (2) for the defendant to prove that the person who discharged the material concerned did so in accordance with an authorisation under subsection (4) and that the authorisation was in force and applied for the defendant's benefit at that time.

Rain water not to be admitted to sewer without Minister's consent

55. (1) Any person who, without the consent in writing of the Minister, causes, permits, or suffers any rain water, storm water, or surface water to flow into or obtain admission to any sewer, or any drain communicating with any sewer, and also the owner or occupier of any land at the time when rain water, storm water, or surface water is caused, permitted, or suffered to flow into or to obtain admission to any sewer or any drain communicating with any sewer upon, under, or about the said land, shall be liable to a penalty not exceeding two hundred dollars.

* * * * *

Work to be carried out by owner or occupier on Minister's order

56. (1) In order—

- (a) to provide for the proper treatment (including the deodorising) of waste material before it is discharged from land into a drain connected to the undertaking; or
- (b) to prevent the discharge of rain water, stormwater or surface water into the undertaking or to prevent the discharge into the undertaking of waste material that has been prescribed as material that may not be discharged into the undertaking or that is, in the opinion of the Minister, likely to damage or be detrimental to the undertaking; or
- (c) to rectify any installation, construction, connection, alteration or other work done in relation to any drain, fitting, equipment or works in contravention of this Act,

the Minister may, by notice in writing served on the owner or occupier of the land, require him, within the time stated in the notice, to carry out work specified in the notice.

(2) A notice referred to in subsection (1) may require the person on whom it is served to—

- (a) install or construct in such locations as are specified in the notice;
- (b) connect to the undertaking;
- (c) alter or replace;
- (d) maintain, repair or cleanse;
- (e) remove, block or disconnect,

such drains, fittings, equipment or works as are specified in the notice in the manner specified in the notice.

(3) The Minister may revoke or vary a notice referred to in subsection (1) by a subsequent notice in writing served on the owner or occupier of the land.

(4) A person who fails to comply with a notice served on him under this section is guilty of an offence and is liable to a penalty of one thousand dollars and to a further penalty of one hundred dollars for every day on which the failure continues.

(5) Where a person fails to comply with a notice served on him under this section, the Minister may take such action as is, in his opinion, necessary to fulfil the requirements of the notice but, in taking that action, he must not damage the land or the premises concerned to a greater extent than necessary.

(6) A person on whom a notice has been served under this section shall be liable for the costs incurred by the Minister in taking action under subsection (5) but where the Minister has served a notice under this section on two or more persons he shall not recover a sum that exceeds the amount of those costs.

Penalty for destroying sewers or fittings

57. Every person who, not being authorised thereto by the Minister, wilfully or carelessly breaks, injures, or opens or wilfully permits to be broken, injured, or opened any sewer, drain, or fitting, or any work, engine, or other part of the undertaking, shall be guilty of an offence and liable to a penalty of one thousand dollars and shall pay to the Minister his costs in repairing the sewer, drain, fitting, work, engine, or part of the undertaking.

Penalty for interference with works

58. Every person who wilfully pulls up or removes any pole or stake driven into the ground for the purpose of setting out the line of any works connected with the undertaking, or defaces or destroys any works made for the same purpose, shall be liable to a penalty not exceeding five hundred dollars.

Penalty for obstruction of officers, etc.

59. Every person who at any time obstructs, hinders, or molests any surveyor, inspector, collector, or other officer, workman, or person whomsoever employed by virtue of this Act in the performance or execution of his duty shall for a first offence be liable to a penalty not exceeding one hundred and fifty dollars, for a second offence to a penalty not exceeding five hundred dollars and for a subsequent offence to a penalty not exceeding two thousand five hundred dollars.

Obstruction of works by occupiers

60. (1) If the occupier of any land refuses or neglects to allow the owner thereof to carry into effect with respect to that land any of the provisions of this Act, or any order of the Minister made in pursuance thereof, he shall be guilty of an offence.

Penalty: Five hundred dollars.

(2) If the occupier of any land, when requested by or on behalf of the Minister to state the name and description of the owner of the land occupied by him, refuses or wilfully omits to disclose or wilfully misstates the same, any justice may summon the said occupier to appear before him or some other justice at a time and place to be appointed in the summons.

(3) If the said occupier neglects or refuses to attend at the time and place so appointed, or does not show good cause for the said neglect or refusal, or if the said wilful omission or misstatement is proved, the justice before whom the occupier is so summoned may impose upon the occupier a penalty not exceeding fifty dollars.

Sewerage Act 1929

Power to disconnect drains

61. (1) Where—

- (a) material has been discharged from land into the undertaking in contravention of this Act and it is likely, in the opinion of the Minister, that a similar contravention will occur in the future; or
- (b) a person authorised by or under this Act to enter land has, in contravention of this Act, been—
 - (i) prevented from entering that land or from performing his duties in accordance with the authorisation; or
 - (ii) hindered or obstructed in the performance of those duties,

the Minister, after giving to the owner or occupier of the land concerned not less than seven days notice in writing of his intention, may close off or disconnect from the undertaking any one or more of the drains on that land that are connected to the undertaking.

(2) The exercise by the Minister of his powers under this section shall be in addition to any other penalty that may be imposed under this Act.

(3) Before reopening or reconnecting a drain closed off or disconnected under this section, the Minister may require the owner or occupier of the land concerned to pay to him the prescribed fee.

(4) Sewerage rates shall continue to be payable in respect of land notwithstanding that a drain situated on the land has been closed off or disconnected under this section.

**PART 6
RATES**

* * * * *

* * * * *

Exemption from sewerage rates

65. (1) Subject to this section, land that has been acquired or is used—

- (a) exclusively for charitable purposes; or
- (b) exclusively for public worship; or
- (c) by a municipal corporation exclusively for the purposes of the corporation,

shall be exempt from sewerage rates.

(1a) Where land is acquired for a purpose referred to in subsection (1) but, before being used for that purpose, is used for a purpose not referred to in that subsection, the land shall cease to be exempt from sewerage rates under that subsection and the rates that have not been paid (if any) by virtue of that exemption shall, subject to subsection (1b), become payable.

(1b) Rates payable under subsection (1a) shall be reduced by the amount of the charges (if any) paid under subsection (2) in respect of the same period.

(1c) The Minister may remit the whole, or part, of the rates that become payable under subsection (1a).

(2) Notwithstanding that land is exempt from sewerage rates under this section or under the provisions of any other Act, the Minister may require the owner or occupier of the land to pay such charges for—

- (a) providing drainage or sewerage services to the land; or
- (b) providing other related services,

as the Minister thinks fit.

(3) The charges imposed on the owner or occupier of land under subsection (2) must not exceed, in a financial year, the total amount of the rates and charges that would be payable in respect of the land for that financial year if the land were not exempt from sewerage rates.

(4) In the exercise of his powers under subsection (2) the Minister may impose—

- (a) a charge determined according to the number of water closets on the land that drain into a sewer provided by the Minister; or
- (b) a fixed charge or a fixed minimum charge; or
- (c) a charge determined on any other basis that the Minister thinks fit; or
- (d) a combination of two or more of the foregoing charges.

(5) The Minister may publish the charges payable under this section in the *Gazette*.

Sewerage Act 1929

(6) A charge payable under this section in respect of land that is exempt from sewerage rates may be recovered in the same manner as sewerage rates.

Government lands to be assessed

66. (1) All land situated within the drainage area which is used by the Government of the State, or by the officers or servants of the said Government, exclusively for the purposes of the said Government, and all premises consisting of schoolhouses situated within the drainage area which are used pursuant to the *Education Act 1972*, as amended, or pursuant to any corresponding previous enactment, as Government schools or public schools shall be subject to sewerage rates.

(2) The Treasurer shall pay sewerage rates upon the land referred to in subsection (1) of this section to the Minister out of the general revenue of the State.

* * * * *
* * * * *
* * * * *
* * * * *
* * * * *

Determination of rates

73. (1) The Minister may, by notice published in the *Gazette*, fix the scale or scales upon which sewerage rates to be levied in respect of land subject thereto within any drainage area or drainage areas shall be calculated.

(1a) A notice under subsection (1) will have effect in relation to a financial year specified in the notice.

(2) Sewerage rates shall be calculated, in accordance with the scale fixed under subsection (1) of this section, on the basis of determinations of the capital value of land subject thereto, in force under the *Valuation of Land Act 1971-1972*, at the first day of the financial year to which the notice under subsection (1) relates.

(3) A determination of capital value shall be deemed to be in force at the time referred to in subsection (2) of this section if it is in force as at that time under the *Valuation of Land Act 1971-1972*, whether the determination is actually made before or after that time.

(4) Where a determination of capital value, in force at the time referred to in subsection (2) of this section, is subsequently corrected or amended pursuant to the provisions of the *Valuation of Land Act 1971-1972* (whether in pursuance of an objection, review or appeal under that Act, or otherwise) the determination of value, as corrected or amended, shall be deemed to have been in force at the time referred to in subsection (2) of this section.

(5) The sewerage rates to be levied under this Act may be differential and may vary—

- (a) according to the drainage area or portion thereof in which the land subject to the rates is situated; or
- (b) according to whether the land is vacant land or not; or
- (c) according to any other factor.

* * * * *

Recovery not to be delayed

74. The sewerage rates calculated under section 73 of this Act may be recovered by the Minister in accordance with this Act, and his right so to recover them shall not be suspended or delayed by an objection, review or appeal in relation to a valuation under the *Valuation of Land Act 1971-1972*, and the Minister may recover sewerage rates on the assumption that the valuation is correct, but if any alteration to a valuation affecting the amount of sewerage rates payable in respect of any land is made under that Act (whether in consequence of an objection, review or appeal, or otherwise) the Minister shall refund any excess amount recovered to the person from whom it was recovered, and may recover any additional amount, recoverable on the basis of the altered valuation, as arrears.

* * * * *

Power of Minister to fix minimum sewerage rates

75. (1) The Minister may, by notice in the *Gazette*, fix a minimum sewerage rate in respect of any land.

(2) The minimum rate may vary according to whether the land to which it relates is vacant land or not, and according to the situation of the land or any other factor.

(3) A notice under subsection (1) will have effect in relation to a financial year specified in the notice.

(4) Where land ceases to be vacant land to which a minimum rate applies, the minimum rate for vacant land shall cease to apply in relation to that land as from the payment day next ensuing after it ceases to be vacant land.

* * * * *

Time for publication of notices

76. Notices under sections 73(1) and 75(1) must be published in the *Gazette* on or before 31 July in the financial year in relation to which they have effect.

Power to reduce scale of sewerage rates

77. (1) If the Minister at any time is of opinion that the sewerage rates amount to more than sufficient for the purposes of this Act he may, by notice published in the *Government Gazette*, reduce throughout the whole or any part of any drainage area the scale of sewerage rates on every or any description of property.

(2) Every such reduction shall take effect on the first day of January or the first day of July, as the case may be, in any year, whichever of those days happens first after the publication of the notice, unless the reduction is thereby directed to take effect sooner.

* * * * *

Initiation of liability to rates

78. (1) Whenever a sewer has been laid down by the Minister in a drainage area, he shall cause notice of that fact to be published in the *Gazette*.

(2) As from the payment day next ensuing after the expiration of seven days from the day on which that notice is published, sewerage rates shall be payable according to the appropriate scale for the time being in force in respect of all land within the drainage area that could in the opinion of the Minister, by means of drains, be drained by the sewer.

Sewerage Act 1929

(3) A notice of the kind contemplated by this section published under this Act, as in force before the commencement of the *Sewerage Act Amendment Act 1970*, shall be deemed to be a notice published under this section in all respects as if this section had been in force when the notice was published.

(4) Where sewerage rates have become payable in respect of any land within a drainage area the rates shall not cease to be so payable by reason of any alteration of drainage areas in consequence of which the land becomes situated within a different drainage area.

(5) In any proceedings under this Act, objection shall not be allowed on the ground that a notice under this section is invalid or inoperative by reason of an error or inaccuracy contained therein if the court before which the proceedings are brought is satisfied that, notwithstanding that error or inaccuracy, the meaning and effect of that notice is clear.

(6) Where a notice has been published under this section before the declaration of the area in which the sewer has been laid down as a drainage area, the notice shall be deemed to have been published immediately after that declaration.

Sewerage charges before rates are payable

78A. (1) The Minister may require the owner or occupier of land to pay such charges as the Minister thinks fit for—

- (a) the provision of drainage or sewerage services to the land; or
- (b) the provision of other related services,

by means of a sewer that the Minister has laid down in a drainage area if, at the time that those services are provided, the owner or occupier of the land is not liable to pay for them by way of sewerage rates or pursuant to an agreement made, or deemed to have been made, with the Minister.

(2) In the exercise of his powers under subsection (1), the Minister may impose—

- (a) a charge determined according to the number of water closets on the land that drain into the sewer; or
- (b) a fixed charge or a fixed minimum charge; or
- (c) a charge determined on any other basis that the Minister thinks fit; or
- (d) a combination of two or more of the foregoing charges.

(3) The Minister may publish the charges payable under this section in the *Gazette*.

(4) A charge payable under this section may be recovered in the same manner as sewerage rates.

Power to make rates payable quarterly

79. (1) All sewerage rates in respect of land within a drainage area or areas shall be payable in advance by equal payments on the first days of July, October, January and April in each year: Provided that the Governor may by proclamation vary the days on which such sewerage rates shall be payable and in that event such rates shall be so paid accordingly.

(1a) If a sewerage rate or the scale on which a sewerage rate is to be calculated has not been fixed on or before the first day of the financial year to which it relates the payment in respect of the first quarter will become payable on the day on which the rate or the relevant scale is fixed under this Act.

(2) Nothing in this section shall be construed to prevent any owner or occupier of land from paying sewerage rates in full in advance upon receipt of a notice for any quarterly amount that is due and payable.

Service of notice of amount due to Minister and method of recovery thereof

80. (1) A notice containing particulars of any amount (other than a pecuniary penalty) payable to the Minister by any person under this Act, or under any by-law or regulation or agreement made under this Act (which notice may also contain particulars of an amount payable to the Minister under the *Waterworks Act 1932-1972*), shall be given to that person as soon as conveniently may be after the amount becomes payable.

(2) The notice may be given—

- (a) by delivering the same to the person by whom the amount is payable, or by leaving the same at his usual residence or place of business with some person apparently above the age of fourteen years; or
- (b) by leaving the same upon the land with respect to which, or to any fitting upon or in which, the amount is payable; or
- (c) by posting the same enclosed in a prepaid envelope addressed to the person by whom the amount is payable, at his last known or most usual place of abode or business:

Provided that in any proceedings for the recovery of the said amount the onus of proving that notice was not given as provided by this section shall be on the defendant.

(3) The amount specified in a notice under this section shall, upon the giving of the notice, be forthwith paid to the Minister, and the Minister may, in default of payment, whether or not the amount is due in respect of rates—

- (a) avail himself for the purpose of recovering the said amount of any or all of the methods or remedies provided by this Act for the recovery of sewerage rates in arrear; and
- (b) cut off the supply of water to the land in respect of which, or of any fitting upon or in which, the said amount is payable, until the said amount, together with all expenses incurred by the Minister in cutting off the said supply and the estimated cost of restoring the said supply, have been paid:

Provided that nothing in this section shall be deemed to take away any remedy prescribed by any provision of this Act for the recovery of any amount due to the Minister.

When several premises drained by one drain each owner or occupier to pay

81. When land in the separate occupation of several persons is drained by one common drain or sewer, the several owners or occupiers of the land shall be liable to payment of the same sewerage rate as they would have been liable to if each such piece of land had been drained by a separate drain.

Sewerage Act 1929

Collector may collect rents when sewerage rates in arrear

82. (1) When sewerage rates for the payment whereof the owner of any land is liable are in arrear, the collector shall give notice in writing to the occupier of the land in respect of which the arrears are due to pay to him all rents payable in respect of the said land after the service of the said notice until satisfaction is made thereof of such arrears.

(2) Every such occupier shall pay to the collector all rent accruing due after the service of the said notice.

(3) Until full satisfaction of the said arrears by the receipt of rent as aforesaid, together with all costs (including interest at the rate of five per cent per annum on the total sum), the Minister may exercise against the occupier, in addition to any other remedy under this Act, all remedies which may be enforced by a landlord against a tenant for recovery of rent in arrear.

(4) The receipts given by the Minister or collector to each such occupier shall, as between him and the person to whom he should otherwise have paid the said rent, be a complete discharge from such rent to the amount paid, and may be pleaded in bar to every action in which the said rent, or damages in lieu thereof, are sued for.

Reimbursement of rates payable by owner paid by tenant, and rates payable by tenant paid by owner

83. (1) When any owner of any land is by virtue of this Act, or by contract or otherwise, liable to payment of any sewerage rates to be collected in respect thereof, and the sewerage rates are required from and paid by any lessee or occupier, then the said lessee or occupier may set off the amount so paid against any rent due from him to the said owner, and the collector's receipt for the said sewerage rates shall be a discharge of rent and evidence of payment to the amount specified therein.

(2) If the sewerage rate so paid or satisfied exceeds the rent due, the lessee or occupier may either set off the amount against accruing rent, or recover the same by action as for money paid.

(3) If any such owner has paid any sewerage rate properly payable by the occupier or lessee, the owner may recover the amount so paid from the said occupier or lessee, or may distrain for and recover the same in the same manner as if the same were rent in arrear.

Rates paid by tenant

84. Any occupier or lessee of any land within a drainage area who pays sewerage rates for a period prior to or extending beyond his term may recover from the owner of the land the amount so paid by action in any court of competent jurisdiction, or may deduct the same from any unpaid rent.

Recovery of water rates and sewerage rates together where both included in one notice

85. In any case where water rates and sewerage rates, particulars of which are comprised in the same document pursuant to section 80, remain unpaid after the date whereon the same are respectively payable, the said sewerage rates shall, for the purpose of enabling payment to be enforced, be deemed to be payable to the Minister pursuant to the *Waterworks Act 1932*; and for that purpose the Minister shall have, and may avail himself of or exercise in his own name, all or any of the powers, rights, and authorities and methods and remedies which he has, or might exercise or avail himself of, for the purpose of enforcing payment of water rates in arrear.

PART 6A
POWER TO LEASE DRAINAGE WORKS

Power to lease

85A. (1) The Minister may, with the consent of the Governor, lease to any municipal corporation or district council or to any persons any drainage works comprised in the undertaking, and any property connected therewith, for such period, at such rent, upon such terms and conditions, and subject to such powers, reservations, restrictions, and provisions as he may think fit.

(2) Any municipal corporation or district council may accept any such lease, and may from time to time apply all necessary portions of its revenue in paying the rent reserved thereby, and also in repairing and maintaining the drainage works so leased.

Power to accept surrenders

85B. The Minister may, with the consent of the Governor, accept a surrender of any such lease upon such terms and conditions, and may allow such concessions and remissions, as he shall think fit.

Powers of lessees

85C. (1) During the term of any such lease, the lessee shall have and may exercise, with respect to the drainage works so leased, all such rights, powers, and privileges vested in and exercisable by the Minister as the Governor may, from time to time, by proclamation declare.

(2) Notwithstanding any such lease, all felonies, fines, penalties, and forfeitures for any crime or offence against the provisions of this Act, shall be punishable, payable, and recoverable against, by, and from the person committing or liable to the same, as if any such lease had not been made.

Rating powers of lessees

85D. Whenever any drainage works are leased under this Part it shall be competent for the Minister in the lease or the Governor by proclamation, to confer on the lessees, during the term of any lease, all or any of the powers in Part 6 granted to the Minister. The powers conferred as aforesaid may be conferred subject to such conditions or restrictions as the Minister in the lease or the Governor in the proclamation may fix.

Sewerage Act 1929

PART 7
LEGAL PROCEDURE

* * * * *

* * * * *

* * * * *

* * * * *

* * * * *

Power to distrain for sewerage rates in arrear

92. (1) If any sewerage rates remain unpaid for the space of twenty-one days after the date whereon the same are payable, the Minister, or any collector of sewerage rates, may—

- (a) recover the said rates with costs; or
- (b) issue a warrant to a bailiff or other person referred to in the warrant (whether by name or by reference to his office) to levy the said rates, together with fees and expenses not exceeding the fees and expenses which a bailiff is entitled to charge in the case of an execution under the *Local Courts Act 1926*, by distress and sale of the goods and chattels, wheresoever they may be found, of the owner or occupier, at the time when the warrant is executed, of the land with respect to which the said rates are payable.

(2) The Minister or collector may in the first instance at his option cause to be distrained under this section either the goods and chattels of the person occupying the land in respect of which rates are due and unpaid or the goods and chattels of the owner of the said land; and in case no sufficient goods and chattels of the person against whom distress is levied in the first instance are found to satisfy the distress, the Minister or collector may cause to be distrained the goods and chattels of the other person whose goods and chattels are under this section liable to distraint.

(3) If the owner of any land in respect of which any rates are due and unpaid is absent from the State, and upon distress being levied no sufficient goods of the occupier can be found to satisfy such distress, the agent of the owner shall be liable for the said rates and the same may be recovered from him.

(4) A warrant shall not be issued for the recovery of any sewerage rates under this section unless—

- (a) the notice provided for in section 80 of this Act has been given in the manner provided for by subdivision (a) of subsection (2) thereof, or in the manner provided for by subdivision (c) of the said subsection; or
- (b) at least fourteen days' notice of the amount of the sewerage rates claimed from the person whose goods and chattels are to be distrained upon by virtue of the warrant has been served personally upon that person.

(5) Any bailiff or other person to whom a warrant has been issued under this section shall, for the purpose of executing the warrant, have all the powers and authorities of a bailiff under the *Local Courts Act 1926*.

Amounts due to Minister to be a charge on the land

93. (1) The amount of all sewerage rates and of any other costs, charges, or expenses due to the Minister under this Act and any amount payable to the Minister under an agreement to defer payment of an amount due under this Act shall, until payment, be and remain a first charge upon the land with respect to which, or to any fitting upon or in which, the amount is payable.

(2) No statute of limitations or other Act shall bar or in any wise affect any action or other legal proceeding for the recovery of any such amount.

(3) The said amount shall be paid by and shall be recoverable from the owner or occupier for the time being of the land with respect to which, or to any fitting upon or in which, the amount is payable.

Lands may be sold when rates, etc., in arrear

94. (1) Where sewerage rates or any other sum that is, by virtue of section 93, a first charge upon land, is in arrear for the space of two years, the Minister may cause to be published three times in the *Government Gazette* a notice specifying the land and the amount of sewerage rates or other sum as aforesaid due in respect thereof and stating that, if the rates or sum is not paid within one year from the first publication of the notice, the Minister will let the same from year to year as provided by this Act, or will apply to the Supreme Court for a sale thereof.

(2) If after one year from the first publication of the notice, all or any part of the sewerage rates or other sum as aforesaid due at the time of the first publication thereof is still unpaid, the Minister may—

- (a) let the land from year to year, and may receive the rents and apply the same towards the payment of the sewerage rates or other sum as aforesaid and other costs and expenses, and hold any surplus for the owners of the land; or
- (b) by petition to the Supreme Court, or a judge thereof, apply for a sale of the land described in the notice, or of so much as may be necessary.

(3) The court or judge, on being satisfied, by affidavit or otherwise, that the arrears are lawfully due and were in arrear at the time of the first publication of the notice, and that all acts required by this section to be done by the Minister have been done, may order—

- (a) that the said land be sold, or so much thereof as is sufficient to pay all arrears due up to the time of sale, together with interest at five per centum per annum on such arrears as were then due from the time of the first publication of the notice, together with all costs of and attending the notice, and the costs of and attending the application, and of and attending the sale by public auction; and
- (b) that the proceeds of the sale be paid into court; and
- (c) that payment of the said sewerage rates, other sum as aforesaid, interest, costs, and expenses be made in preference to any mortgage or other security; and
- (d) that the conveyance or transfer, as the case may be, shall be executed by the Master or some other officer of the court to the purchaser, his executors, administrators, and assigns, in a form to be approved by the court or a judge.

(4) The said conveyance or transfer shall vest the legal estate in the sold land in the purchaser, his executors, administrators, and assigns, free from all encumbrances.

Sewerage Act 1929

(5) In any case where the land is under the provisions of *The Real Property Act 1886*, the purchaser shall be entitled to receive a certificate of title to the land purchased.

(6) The balance arising from the proceeds of any such sale shall remain and be subject to any future or other order of the court, for the benefit of the party or parties interested therein.

Persons causing offences liable

95. Every person who causes the commission of any offence against this Act, or by whose order or direction any such offence is committed, shall be deemed to be guilty of that offence, and shall be liable to the same penalty as if that person had actually committed the offence.

Power to Minister to apportion payments

96. Where, under the authority of this Act, two or more persons are or may be directed by the Minister to do or join in doing any act, or to pay or join in paying any sum of money, costs, or expenses, or where the Minister is authorised or thinks proper to permit two or more persons to join together in doing any act or paying any sum of money, costs, or expenses, the Minister may apportion the matter to be done, or the sum of money, costs, or expenses to be paid, between those persons in such manner as the Minister considers just and reasonable.

Recovery of moneys due to Minister

97. (1) If any person refuses or neglects to pay to the Minister any sewerage rate or other sum of money due by that person to the Minister under this Act, the Minister or any collector in his name may sue for and recover the same in any court of competent jurisdiction, as a debt due to the Minister.

(2) The Minister's remedy under this section shall be in addition to his other remedies for the recovery thereof.

* * * * *

Appropriation of moneys recovered under this Act

99. All fines, penalties, and other moneys levied or recovered by the Minister under this Act, or under any agreement made under this Act, shall be paid to the Treasurer.

Gazette to be evidence in certain cases

100. The production of the *Government Gazette*, or of any printed document purporting to be a copy thereof, published by authority or printed by the Government Printer for the said State, and containing any regulations purporting to be regulations made under the authority of this Act, and any notice purporting to be published by the Minister in pursuance of this Act, shall, in all legal proceedings, be deemed and taken to be *prima facie* evidence of the publication, and of all such facts and circumstances as were or are necessary to authorise the publication and making of the said regulations and the publication and giving of the said notice.

Certified plan to be evidence of drain

100AA. A plan purporting to be certified by the Director-General and Engineer-in-Chief and to accurately delineate the position of a drain connected to the undertaking shall be accepted in legal proceedings, in the absence of proof to the contrary, as proof of the position of the drain and of its connection to the undertaking.

Certificate of Minister

100A. (1) In any proceedings for the recovery of sewerage rates payable under this Act, a certificate under the hand of the Minister, to the effect that on and from a day specified in the certificate the land specified in the certificate could in the opinion of the Minister, by means of drains, be drained by a sewer specified in the certificate, shall be conclusive evidence of the matter set out in the certificate.

(2) In any proceedings referred to in subsection (1) of this section, a document purporting to be a certificate referred to in that subsection shall, in the absence of proof to the contrary, be deemed to be such certificate.

Service of notices

101. (1) All notices required by this Act to be given to the owner or occupier of any land or any other person—

- (a) may be served personally upon the said owner, occupier, or person; or
- (b) may be left with some inmate of his place of abode; or
- (c) may, if there is no occupier, be affixed to some conspicuous part of the land.

(2) It shall not be necessary in any notice to any owner or occupier of any land to name the owner or occupier.

(3) Notwithstanding anything contained in this section, where there is no occupier, and the owner of the land and his place of abode or that of his agent is known to the Minister, the said notice shall be—

- (a) served on the owner personally, or left with some inmate of his place of abode; or
- (b) transmitted to the said owner through the post office addressed to him at his place of abode, or last known place of abode, in South Australia; or
- (c) served on his agent in manner aforesaid.

* * * * *

Minister may remit fines

103. The Minister may remit the whole or any part of any fine, penalty, or forfeiture inflicted under the provisions of this Act.

Proceedings against persons acting under this Act

104. (1) All actions and prosecutions to be commenced against any person for anything done, or for anything omitted which ought to have been done, in pursuance of this Act shall be commenced within two years after the fact was committed or omitted, as the case may be, and not otherwise.

(2) In any such action the defendant may plead the general issue, and give this Act and the special matter in evidence at any trial thereupon.

(3) No plaintiff shall recover in any such action if tender of sufficient amends has, as hereinafter mentioned, been made before such action brought, or if a sufficient sum of money has been paid into court after such action brought by or on behalf of the defendant, together with the costs incurred up to that time.

(4) If a verdict is given for the defendant, or the plaintiff becomes nonsuited, or discontinues any such action on issue joined, or if otherwise judgment is given against the plaintiff, the defendant shall recover his full costs as between solicitor and client and have the like remedy for the same as any defendant has by law in other cases.

Sewerage Act 1929

(5) Notwithstanding that a verdict is given for the plaintiff in any such action, the plaintiff shall not have costs against the defendant unless the court certifies in writing at the conclusion of the trial its approbation of the action, and of the verdict obtained thereupon.

Tender of amends

105. (1) If any person commits any irregularity, trespass, or other wrongful proceeding in execution of this Act, or omits to do anything which in pursuance of this Act, or by virtue of any power or authority hereby given, he ought to do, and if, before action brought in respect thereof, that person makes tender to the person injured, or to his solicitor or agent, of such amends as in the opinion of the court at the trial were sufficient the person injured shall not recover in any such action.

(2) If no such tender has been made, the defendant may, by leave of the court wherein the action is pending, at any time before issue joined, pay into court such sum of money as he thinks fit, and thereupon the proceedings shall be had as in other cases where defendants are allowed to pay money into court.

Summary proceedings

106. All proceedings for offences against this Act shall be disposed of summarily.

SCHEDULE 1

Acts Repealed

Reference to Act	Title or Short Title of Act
No. 106 of 1878	<i>Adelaide Sewers Act.</i>
No. 303 of 1883-4	<i>Adelaide Sewers Act Amendment Act.</i>
No. 369 of 1886	<i>An Act to amend the Adelaide Sewers Act Amendment Act.</i>
No. 662 of 1896	<i>An Act to amend the Adelaide Sewers Act.</i>
No. 783 of 1902	<i>Adelaide Sewers Act Amendment Act 1902.</i>
No. 1282 of 1917	<i>Adelaide Sewers Acts Further Amendment Act 1917.</i>
No. 1366 of 1919	<i>Adelaide Sewers Act Further Amendment Act 1919.</i>
No. 1556 of 1923	<i>Adelaide Sewers Act Further Amendment Act 1923.</i>
No. 1634 of 1924	<i>Adelaide Sewers Act Further Amendment Act 1924.</i>
No. 1745 of 1926	<i>Adelaide Sewers Act Further Amendment Act 1926.</i>
No. 1845 of 1927	<i>Adelaide Sewers Act Further Amendment Act 1927.</i>

SCHEDULE 2

Validation of Notices

1. A notice published in the *Gazette* on 11 July 1991 in purported exercise of the power under section 73(1) will be taken to have been validly published by the Minister under that section in respect of the 1991/1992 financial year and will have effect in respect of that year notwithstanding the fact that it was published after the commencement of the financial year and notwithstanding any defect in its form.

2. A notice published in the *Gazette* on 11 July 1991 in purported exercise of the power under section 75 to fix minimum sewerage rates will be taken to have been a valid exercise of that power by the Minister in respect of the 1991/1992 financial year and will have effect in respect of that year notwithstanding the fact that it was published after the commencement of the financial year and notwithstanding any defect in its form.

3. A notice given to a person before the *Statutes Amendment (Waterworks and Sewerage) Act 1991* is assented to by the Governor that purports to contain particulars of an amount payable to the Minister under this Act in respect of the 1991/1992 financial year will be taken to be a notice under section 80 and to have been given to that person as soon as conveniently possible after the amount became payable.

Sewerage Act 1929

APPENDIX

LEGISLATIVE HISTORY

- Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 10 of The Public General Acts of South Australia 1837-1975 at page 107.
- Legislative history since 3 February 1976 (**entries in bold type indicate amendments incorporated since the last reprint**) is as follows:

Section 4:	redesignated as s. 4(1) by 16, 1984, s. 3(d) definition of "equipment" inserted by 16, 1984, s. 3(a) definition of "fittings" amended by 16, 1984, s. 3(b) definition of "Minister" repealed by 16, 1984, s. 3(c)
Section 4(2):	inserted by 16, 1984, s. 3(d)
Section 13(1):	amended by 16, 1984, s. 4(a)-(c); 38, 1987, s. 3(a)
Section 13(1)6:	repealed by 10, 1981, s. 4(a)
Section 13(2):	substituted by 16, 1981, s. 4(d)
Section 13(2a):	inserted by 38, 1987, s. 3(b)
Section 13(3):	substituted by 16, 1984, s. 4(d)
Section 13(4) and (5):	inserted by 16, 1981, s. 4(d)
	Part 3A comprising ss. 17B and 17C and heading inserted by 23, 1988, s. 3
Sections 33 - 36:	substituted by 16, 1984, s. 5
Sections 37 - 41:	repealed by 16, 1984, s. 5
Section 43:	substituted by 38, 1987, s. 4
Section 44:	repealed by 38, 1987, s. 4
Section 46:	substituted by 38, 1987, s. 5
Section 46(6):	amended by 33, 1994, s. 6
Section 47:	repealed by 38, 1987, s. 5; inserted by 33, 1994, s. 7
Section 48:	repealed by 38, 1987, s. 5
Section 49(3):	amended by 16, 1984, s. 6
Section 51:	substituted by 16, 1984, s. 7
Section 52(1):	amended by 16, 1984, s. 8(a)
Section 52(3):	substituted by 16, 1984, s. 8(b)
Section 52(3aa):	inserted by 16, 1984, s. 8(b)
Section 54:	substituted by 16, 1984, s. 9
Section 55(1):	amended by 16, 1984, s. 10(a)
Section 55(2):	repealed by 16, 1984, s. 10(b)
Section 56:	substituted by 16, 1984, s. 11
Section 57:	amended by 16, 1984, s. 12
Section 58:	amended by 16, 1984, s. 13
Section 59:	amended by 16, 1984, s. 14
Section 60(1):	amended by 16, 1984, s. 15(a)
Section 60(3):	amended by 16, 1984, s. 15(b)
Section 61:	inserted by 16, 1984, s. 16
Section 65:	redesignated as s. 65(1) by 10, 1981, s. 4(b); substituted by 16, 1984, s. 17
Section 65(1a) - (1c):	inserted by 16, 1984, s. 17
Section 65(2) - (6):	inserted by 10, 1981, s. 4(b)
Section 68:	repealed by 10, 1981, s. 4(c)
Section 73(1):	amended by 16, 1984, s. 18(a)
Section 73(1a):	inserted by 51, 1991, s. 4(a)
Section 73(2):	amended by 29, 1981, s. 21; 51, 1991, s. 4(b)
Section 73(3):	amended by 29, 1981, s. 21
Section 73(4):	amended by 29, 1981, s. 21; 88, 1984, s. 8(3) (Sched. Pt. 3)
Section 73(6):	repealed by 16, 1984, s. 18(b)
Section 74:	amended by 88, 1984, s. 8(3) (Sched. Pt. 3)
Section 75(1):	substituted by 51, 1991, s. 4(c)
Section 75(3):	substituted by 51, 1991, s. 4(d)
Section 76:	inserted by 51, 1991, s. 4(e)
Section 77A:	amended by 55, 1977, s. 7; repealed by 78, 1986, Sched. 5
Section 78A:	inserted by 16, 1984, s. 19
Section 79(1a):	inserted by 51, 1991, s. 4(f)
Section 93(1):	amended by 38, 1987, s. 6
Section 94(1):	amended by 38, 1987, s. 7

(Reprint No. 2)

APPENDIX

38

Sewerage Act 1929

Section 100AA:

inserted by 16, 1984, s. 20

Section 102:

repealed by 16, 1984, s. 21

Schedule 2:

inserted by 51, 1991, s. 4(g)