

South Australia

Water Conservation Act 1936

An Act to consolidate certain Acts relating to the conservation of water.

Contents

Part 1—Preliminary

- 1 Short title
- 3 Consolidation and repeal
- 5 Interpretation

Part 2—Powers of the Governor and the Minister

- 6 Power to proclaim water districts
- 8 Power of Minister to sue etc
- 9 General powers of Minister
- 10 Powers outside water districts
- 11 By-laws
- 12 Contracts
- 13 Control of lakes etc
- 14 Power to vest Crown lands in Minister
- 15 Power to place public water reserves etc under control of Minister
- 16 Power to sell waterworks
- 17 Power to lease and surrender
- 18 Powers to erect standpipes and sell water
- 19 Power to make agreement to supply water by measure
- 20 Agreement to bind land
- 21 Minister may delegate his powers

Part 3—Charges

- 40 Power to charge fee for use of meter
- 43 Recovery of rates

Part 4—District water supplies

- 52 Interpretation
- 53 Power to place control of water conservation reserves in councils
- 54 Duty of council to maintain water conservation reserve
- 55 Power to impose special rate
- 56 Power to sell water
- 57 Water conservation reserve subject to lease
- 58 Power for council to lease water conservation reserve
- 59 Power of council to surrender reserve
- 60 Council not liable for accidental failure of supply
- 61 Penalty for destroying waterworks

- 62 Penalty for unlawfully taking or diverting water from any river, creek etc
- 63 Penalty for unlawfully taking water from any waterworks
- 64 Penalty for polluting water

Part 5—Miscellaneous

- 65 Application of *Compulsory Acquisition of Land Act 1925*
- 66 Limitation of liability to make compensation
- 67 Principles in awarding compensation
- 68 One sum may be awarded for all interests affected
- 69 Accidental failure of supply
- 70 Free passage to be given to supply water
- 72 Penalty for obstructing the setting out of works
- 73 Penalty for destroying waterworks
- 74 Penalty for unlawfully taking or diverting water from any river, creek etc
- 75 Penalty for unlawfully taking water from any waterworks
- 76 Penalty for polluting water
- 77 Penalty for allowing liquid from sewer, drain etc to run into waterworks
- 78 Removal of injurious matter on watershed
- 79 Penalty for interfering with meter etc
- 80 Penalty for trespassing
- 81 Penalty for taking timber from public water reserve
- 82 Penalties for pollution etc to apply to all waterworks
- 83 Minister not to be personally liable
- 84 Information and complaints, how laid for stealing etc
- 85 Actions against Minister etc
- 86 Service of notice of amount due and method of recovery thereof
- 87 Amounts due to be a charge on the land
- 88 Existence of communication pipes evidence of contract
- 89 Evidence of water district
- 90 Powers of councils
- 91 Saving clause

Schedule—Acts consolidated and repealed

Legislative history

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Water Conservation Act 1936*.

3—Consolidation and repeal

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

5—Interpretation

In this Act, unless the context or subject matter otherwise requires—

lake means any lagoon, swamp, marsh, lake, or other collection of still water, whether the supply of still water is permanent or temporary, and whether it is found above or beneath the surface of the ground;

land includes buildings, messuages, tenements, and hereditaments;

the Minister means the Minister of Works;

owner includes the person for the time being receiving, or entitled to receive, the rents of any lands whether on his own account, or as agent, trustee, or attorney for any other person;

public notice means notice by advertisement in the Government Gazette;

ratable property means all lands within a water district (including lands belonging to the Crown), except—

- (a) lands belonging to the Crown, and not lawfully contracted to be granted to any person in fee simple or leased;
- (b) lands used exclusively by the Government for any public purpose;
- (c) lands which cannot on account of elevation, situation, or other circumstance receive any benefit from waterworks established in the water district in which they are situated, or the value of which is not increased by reason of the waterworks;
- (d) any public hospital, mental hospital, benevolent institution, or buildings used exclusively for charitable purposes;
- (e) any church, chapel, or buildings used exclusively for divine worship;

rate includes every meter rent, fee, or other charge payable, and every reward or payment to be made, whether under agreement or otherwise, to the Minister for a supply of water from any waterworks, or for any purpose whatever;

river means any stream of water, whether perennial or intermittent, flowing in a natural bed or course, either above or beneath the surface of the ground;

town lands means any lands laid out as a town or township by the Government, and any other lands laid out or subdivided into allotments, of which laying-out or subdivision plans are deposited in the General Registry Office or Lands Titles Registration Office;

water district means any water district proclaimed under this Act or any Act repealed by this Act;

watercourse means any stream of water of smaller dimensions and discharge than would entitle it to the name of "river", as this term is generally understood, whether the stream of water is permanent or intermittent, and whether its flow is above or beneath the ground, or partly above and partly beneath;

waterworks includes buildings, reservoirs, dams, tanks, cisterns, weirs, watercourses, aqueducts, wells, channels, pipes, drains, cuts, culverts, tunnels, sluices, trenches, embankments, standpipes, filters, bridges, engines, machines, implements, and all other contrivances, appliances, and works, whether existing on or being affixed to the soil, and whether wholly or partly artificial, used by the Minister for or in connection with the reception, protection, purification, storing, accumulation, transmission, or distribution of water, and for or in connection with works for irrigation purposes.

Part 2—Powers of the Governor and the Minister

6—Power to proclaim water districts

The Governor may, subject to the provisions of this Act, from time to time by proclamation—

- (a) constitute any portion of the State a water district for the purposes of this Act;
- (b) define the boundaries of, and give a name or number to, every water district;
- (c) constitute any portion of any water district, or of two or more water districts, a new water district;
- (d) alter the boundaries of any water district, either by separating part thereof from, and declaring that it shall no longer form part of, a water district, or by adding to a water district other land, whether theretofore included or not within the limits of a water district;
- (e) abolish any water district.

8—Power of Minister to sue etc

The Minister may sue and be sued, implead and be impleaded, and may accept, purchase, hold, enjoy, sell, and dispose of any real and personal property of every kind for the purposes of this Act.

9—General powers of Minister

Subject to the provisions of this Act, the Minister may by himself, his officers, agents, licensees, and servants, for the purpose of constructing, completing, extending, or maintaining any waterworks, and for supplying water to or in any water district, and for carrying out the provisions of this Act, from time to time exercise any of the following powers within or beyond the limits of any water district, doing as little damage in the exercise of such powers as may be:

- I With or without horses, cattle, or carriages, enter upon and take the levels of any land, and set out such parts as may be required for the purposes of the Minister, and dig, break up, and trench the soil of any such land, and remove or use all earth, stones, minerals, trees, and other things dug or obtained out of or from the same:
- II Enter upon, take, and hold, either temporarily or permanently, possession of, and appropriate such land as the Minister deems necessary or desirable for the construction, maintenance, or improvement of any waterworks, or for securing or increasing the supply, or improving the quality of water to be supplied:

- III Sink such wells and shafts, and make, maintain, alter, or discontinue such waterworks, and erect and maintain such buildings upon any land, or in, upon, or across any lake, river, or watercourse required by the Minister, as the Minister deems proper for supplying any water district with water:
- IV Divert and impound the water from any lake, river, or watercourse as the Minister deems fit:
- V Divert or alter, as well temporarily as permanently, any part of the course of any river or watercourse, or (temporarily only) any road, street, or way, in order the better to carry out the duties or exercise the powers of the Minister:
- VI Construct waterworks for irrigation and other purposes:
- VII Cut drains and make channels to deliver water into or take water out of, and embank, widen, or deepen, any lake, river, or watercourse:
- VIII Enter at any time upon any lands, roads, streets, or ways, for the purpose of constructing, repairing, altering, cutting off, or removing any waterworks under the control of the Minister, but the Minister may not enter upon any enclosed land of any person within 100 metres of any dwellinghouse thereon without the written consent of the owner.

10—Powers outside water districts

The Minister may construct waterworks at any place beyond the limits of a water district for the supply of water to the water district, and for that purpose shall have and may exercise outside of the water district all the powers exercisable by him within the water district.

11—By-laws

The Minister may, from time to time, make by-laws for or relating to all or any of the following subjects—

- I The leasing, care, or control of any waterworks:
- II The imposing, levying, and collecting rates and charges within any water district:
- III The measures to be taken to prevent and remedy the waste, undue consumption, obstruction, and contamination of water contained or supplied from any part of the waterworks, and to regulate the days and hours when water can be obtained for irrigation on any land, and the quantity to be allowed:
- IV The protection of every part of the waterworks from trespass or injury:
- V The terms and conditions upon which the Minister will supply water to ratepayers, travellers, and travelling stock within any water district, or at any place beyond any water district, and the scale of charges for supply of water by measure or otherwise, and the providing and regulating the construction, disposition, and inspection of meters and other fittings:
- VI Granting licences to competent plumbers, and cancelling such licences, and also for preventing any other than licensed plumbers from fixing, altering, or repairing any pipes, fittings, or meters connected with the pipes or works under the control of the Minister:

- VII For compelling persons using water supplied by the Minister to keep their pipes, fittings, and other appliances in proper repair; for preventing any alteration of, or interference with any such pipes or fittings without the consent of or notice to the Minister; for repairing any such pipes, fittings, and appliances so as to prevent waste of water, and for recovering the cost of any such repairs:
- VIII For preventing unauthorised persons using, directly or indirectly, water supplied by the Minister:
- IX For regulating the number, form, material, dimensions, construction, and arrangement of pipes, fittings, and other works supplying water from the pipes of the Minister to adjacent premises; the time of executing and the notices to be given for any such works; the superintendence thereof; the making good and replacing ground which may be displaced in the course of any such works; and for inspecting at reasonable times, pipes and fittings, whether situate within any buildings or otherwise:
- X For imposing penalties not exceeding one hundred dollars for any breach of any by-law:
- XI Generally for more effectually exercising the powers conferred upon the Minister by this Act, and for carrying out the provisions of the same in every particular.

12—Contracts

The Minister may, subject to the provisions of this Act, enter into contracts with any person or persons for the construction of any waterworks, or for furnishing materials, or any other things necessary for the purposes of the Minister.

13—Control of lakes etc

- (1) The Governor may from time to time, by proclamation, order that any lakes, rivers, and watercourses shall be under the exclusive control and management of the Minister.
- (2) Thereupon the Minister shall, from and after the publication of the proclamation, have the exclusive control and management of all lakes, rivers, and watercourses specified in the proclamation.
- (3) Any such proclamation may from time to time be modified or revoked by the Governor by proclamation.

14—Power to vest Crown lands in Minister

The Governor may from time to time, by proclamation and either by a general or by a particular description, permanently reserve from sale any Crown lands which are required by the Minister for the purposes of this Act, and may vest the same in the Minister upon trust for such purposes, but reserving a right to the Crown, by proclamation, at any time to resume possession of the whole or any part of any such lands for railways, roads, or other public purposes.

15—Power to place public water reserves etc under control of Minister

The Governor may from time to time, by proclamation place under the control of the Minister any public water reserve, and may vest in the Minister, any waterworks, either on any Crown lands, or begun, constructed, or provided for by moneys voted by Parliament: Provided that where any reserve has been previously vested in any municipal council or district council, the consent of the council to the transfer of the reserve shall be first obtained.

16—Power to sell waterworks

- (1) The Minister may sell any waterworks vested in him, or under his control, or any land vested in him at or for such prices and upon such terms and conditions as he may think fit.
- (2) The Governor may on behalf of the Crown, execute all necessary assurances for vesting the waterworks or land in the purchaser.

17—Power to lease and surrender

- (1) The Minister may grant leases for any terms not exceeding twenty-one years of any lands, reserves, waterworks, powers, or premises vested in him or under his control, and may accept surrenders of any such leases.
- (2) Any such leases and surrenders may be granted and accepted on such terms as he may think fit.

18—Powers to erect standpipes and sell water

The Minister may construct waterworks and erect standpipes at any place within or beyond the limits of any water district, and may from any such works sell water by measure, or otherwise, and may lease the same to any persons upon such terms and conditions as he thinks fit.

19—Power to make agreement to supply water by measure

The Minister may enter into an agreement with any person to supply him on any land or premises with water, by measure or otherwise, at such rates, upon such terms, and subject to such conditions as he may from time to time see fit.

20—Agreement to bind land

- (1) Every agreement entered into with the Minister for the supply of water to any particular land shall be binding upon all subsequent owners and occupiers of the same land as if they were parties thereto.
- (2) The land to which water is supplied under any such agreement shall be charged with the moneys from time to time due to the Minister for water so supplied, and any such moneys shall be deemed to be and shall be recoverable in the same manner as rates declared under this Act.

21—Minister may delegate his powers

- (1) The Minister may authorise such person or persons as he thinks proper to do all or any of the acts, matters, and things which the Minister is by this Act empowered 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, to enable him to do such acts, matters, and things respectively.
- (3) All such acts, matters, and things, when done under such authority, shall be as valid and effectual as if they had been done by the Minister.
- (4) Every person so authorised shall have and enjoy, in respect of each such act, matter, or thing so done by him, all such immunities from personal liability as the Minister would have had or enjoyed if he had done the act, matter, or thing.

Part 3—Charges

40—Power to charge fee for use of meter

The Minister may, by public notice, prescribe an annual fee to be paid for the use of meters for the supply of water under this Act, in all cases, or in such class or classes of cases as are specified in the notice; and any such fee shall be payable accordingly.

43—Recovery of rates

Any amount payable to the Minister under this Act may be recovered by action in any court of competent jurisdiction, or in a summary manner, from any person liable to pay the same.

Part 4—District water supplies

52—Interpretation

In this Part—

council means a district council;

district means a district council district;

water conservation reserve means any Crown lands which have been dedicated or reserved for the purpose of the creation or preservation of any water supply.

53—Power to place control of water conservation reserves in councils

- (1) The Governor may by proclamation declare that the care, control, and management of any water conservation reserve within any district shall be vested in the council of the district, and upon the making of any such proclamation the care, control, and management of the water conservation reserve shall be vested in the council.
- (2) The Minister may at any time give notice in writing to the council of the intention of the Governor to revoke any such proclamation and the Governor may, at any time not less than six months after the giving of notice as aforesaid, by proclamation revoke any such proclamation made as aforesaid.

54—Duty of council to maintain water conservation reserve

- (1) The council shall efficiently maintain in good order and condition the water conservation reserve and all waterworks thereon for or in connection with the conservation or supply of water.

- (2) Any expenditure required for the purposes of subsection (1) shall be provided for by all or any of the following means:
- I By payment from the general revenue of the council, which payment the council is hereby authorised to make:
 - II By the imposition of a special rate pursuant to section 55:
 - III By the sale of water pursuant to section 56.

55—Power to impose special rate

- (1) The council may, for the purpose of providing for the whole or any portion of the amount of the cost of maintenance which in any year the council is required to expend pursuant to section 54, make and levy a differential separate rate upon the ratable property within the district which the council by resolution declares to be benefited by the existence of the water conservation reserve in question.
- (2) No such rate shall be made or levied unless the consent in writing of the Minister is obtained thereto.
- (3) The said rate shall be deemed to be a rate made and levied pursuant to the provisions of the *Local Government Act 1934* and the provisions of that Act shall apply accordingly, but it shall not be necessary to obtain any consent of ratepayers to any such rate.
- (4) No rate under this section shall be made or levied upon any land upon which any rate is declared pursuant to the *Waterworks Act 1932*.

56—Power to sell water

The council may sell any water in, upon, or from the water conservation reserve at such rates as the council may think fit, and are approved in writing by the Minister.

57—Water conservation reserve subject to lease

If at the time any water conservation reserve is placed under the care, control, and management of a council, any portion of the water conservation reserve is subject to any lease, the council shall be deemed to be for all purposes the lessor under the lease, and the lease shall be read and construed accordingly.

58—Power for council to lease water conservation reserve

- (1) The council may lease for any term not exceeding twenty-one years the whole or any portion of any water conservation reserve placed under the care, control, and management of the council.
- (2) No lease as aforesaid for cultivation purposes shall be granted by the council without the consent in writing of the Minister.

59—Power of council to surrender reserve

The council may, at any time not less than six months after giving notice in writing to the Minister of its intention so to do, surrender the whole or any portion of a water conservation reserve placed under the care, control, and management of the council.

60—Council not liable for accidental failure of supply

The council shall not be liable to any penalty or damage for not supplying water, if the want of the supply arises from unusual drought or other unavoidable cause or accident.

61—Penalty for destroying waterworks

Any person who unlawfully and maliciously destroys or damages, or attempts to destroy or damage, any part of any waterworks under the care, control, and management of a council, shall be guilty of an offence, and liable to imprisonment for any term not exceeding ten years.

62—Penalty for unlawfully taking or diverting water from any river, creek etc

Any person who—

- (a) unlawfully diverts or takes the waters supplying any lake, river, or watercourse connected with any waterworks under the care, control, and management of a council; or
- (b) does any unlawful act whereby the water therein may be diverted or diminished in quantity,

shall be guilty of an offence, and liable to a penalty not exceeding ten dollars for every day during which the water shall be diverted, taken, or diminished.

63—Penalty for unlawfully taking water from any waterworks

Any person who unlawfully takes or uses any water from any waterworks under the care, control, and management of a council shall be guilty of an offence, and liable to a penalty not exceeding ten dollars.

64—Penalty for polluting water

Any person who—

- (a) throws or conveys, or causes or permits to be thrown or conveyed, any rubbish, dirt, live or dead animal, or any noisome thing, into any waterworks under the care, control, and management of the council; or
- (b) bathes therein, or washes or cleanses therein any clothing, utensil, instrument, or other thing,

shall be guilty of an offence, and liable to a penalty not exceeding forty dollars.

Part 5—Miscellaneous

65—Application of *Compulsory Acquisition of Land Act 1925*

- (1) The *Compulsory Acquisition of Land Act 1925* (except sections 49, 79, 80, 81 and 82) shall apply to the undertaking hereby authorised, and the Minister shall be in the position of the promoters of the undertaking under that Act.

- (2) The Minister may, under the Act so incorporated, take and acquire, either compulsorily or by agreement, all such lands and easements in or over any lands within or beyond the limits of any water district which may be required for the purpose of constructing, completing, or extending any waterworks authorised under the authority of this Act.

66—Limitation of liability to make compensation

The Minister shall not, except as hereinafter otherwise provided, be liable to make compensation for any damage occasioned by the construction or erection by him, of weirs, dams, channels, or reservoirs, under the authority of this Act, nor by taking, impounding, or diverting, temporarily or permanently, the water from any lake, river, or watercourse, and shall not be liable to make any compensation for any exercise of his powers under this Act unless a claim for compensation is made in writing, addressed to the Minister, within one year after the right to compensation arose.

67—Principles in awarding compensation

In determining whether any and what compensation is to be made, the court shall in each case have regard to and is hereby authorised and directed to apply the following principles:

- I No compensation shall be awarded in any case where the injury for which compensation is sought appears to the court to have been the result of the execution of works which were incomplete at the time of the injury if it appears to the court that the works are being *bona fide* prosecuted to completion:
- II No compensation shall be made for any injury, loss, or damage occasioned by the taking or diverting of surplus or flood water, either permanently or temporarily, from any lake, river, or watercourse, but compensation not exceeding the cost thereof shall be allowed for works specially erected to utilise flood waters before the seventeenth day of November, 1886:
- III There shall be considered in reduction of all claims for compensation, by reason of the execution of any works by the Minister, any enhancement in value of any property of the claimant wherever situated which has been directly or indirectly caused, and any other benefit which has been gained by, or become available to, the claimant by reason of the execution of the works, or of any other works by the Minister under this Act or any Act repealed by this Act:
- IV The measure of damages shall in all cases be the direct pecuniary injury to the complainant by the loss of something of substantial benefit previously by him enjoyed, and shall not include remote, indirect, or speculative damages:
- V In any case where the injury complained of appears to be of a permanent or continuing character, or likely to be repeated, a sum may be awarded which the court may declare to be a compensation for all possible future repetitions of the injury, as well as for the injury already done, and after any such award no further compensation shall be made to any person whatsoever in respect of any future repetitions of the injury.

68—One sum may be awarded for all interests affected

- (1) No compensation shall be made in respect of more than one claim for any act or acts causing, or likely to cause, the same kind of injury to the same property, though the acts may injure the interest in reversion as well as in possession in such property.
- (2) Before any sum is awarded as compensation the person claiming compensation shall satisfy the court as to the nature and extent of the respective estates or interests of the claimant and all other persons (if any) in the property said to be injured, and that he has given sufficient notice to all such other persons of his proceedings to obtain compensation under this Act.
- (3) All such other persons who may appear before the court shall be entitled to be heard on behalf of their respective interest in any compensation to be awarded.
- (4) In awarding any sum by way of compensation for such injury the court shall award and apportion as between the claimant and such other persons in such manner in all respects as to the court may seem fit, the amounts to be received by any, or some, or all of them respectively, out of such sum as compensation for all injury actually caused or at any time to be caused to the respective interests of the claimant or other persons in the property.
- (5) The said amounts shall be received by the claimant or other person and shall be in full discharge and satisfaction of any rights, claims, or demands whatsoever accrued or to accrue to any such persons in respect of the act or acts complained of, or any further continuance or repetition thereof.
- (6) Any person to whom any such sum has been awarded or apportioned as aforesaid shall have all such remedies and means of recovering that sum from the party against which the claim has been made as though such person had originally been a claimant under the claim in which the award or apportionment has been so made.

69—Accidental failure of supply

The Minister shall not be liable to any penalty or damage for not supplying water, if the want of the supply arises from unusual drought or other unavoidable cause or accident.

70—Free passage to be given to supply water

- (1) Every owner or occupier of land which is intersected by a lake, river, or watercourse, and every owner or occupier of land through which a channel or drain is cut by the Minister, shall give free passage to water of supply or drainage turned into the lake, river, watercourse, channel, or drain, by the Minister.
- (2) If it is necessary to divert, embank, or alter any such lake, river, watercourse, channel, or drain, the Minister may take possession of and appropriate the land necessary for the purpose.

72—Penalty for obstructing the setting out of works

Any person who—

- (a) wilfully obstructs any person acting under the authority of the Minister in setting out any works undertaken by the Minister in pursuance of this Act; or
- (b) pulls up or removes any poles or stakes or destroys any marks made for the purpose of setting out any such works,

shall be guilty of an offence, and liable to a penalty not exceeding ten dollars.

73—Penalty for destroying waterworks

Any person who unlawfully and maliciously destroys or damages, or attempts to destroy or damage, any part of any waterworks belonging to or under the control of the Minister, shall be guilty of an offence, and liable to imprisonment for any term not exceeding ten years.

74—Penalty for unlawfully taking or diverting water from any river, creek etc

Any person who—

- (a) unlawfully diverts or takes the waters supplying any lake, river, or watercourse connected with any waterworks belonging to or under the control of the Minister; or
- (b) does any unlawful act whereby the water therein may be diverted or diminished in quantity,

shall be guilty of an offence, and liable to a penalty not exceeding ten dollars for every day during which the water is diverted, taken, or diminished.

75—Penalty for unlawfully taking water from any waterworks

Any person who unlawfully takes or uses any water from any waterworks belonging to or under the control of the Minister shall be guilty of an offence, and liable to a penalty not exceeding ten dollars.

76—Penalty for polluting water

Any person who—

- (a) throws or conveys or causes or permits to be thrown and conveyed, any rubbish, dirt, live or dead animal, or any noisome thing, into any waterworks belonging to or under the control of the Minister; or
- (b) bathes therein, or washes or cleanses therein any clothing, utensil, instrument, or other thing,

shall be guilty of an offence, and liable to a penalty not exceeding forty dollars.

77—Penalty for allowing liquid from sewer, drain etc to run into waterworks

Any person who causes or permits the water or other liquid from any sink, sewer, drain, tank, engine, or factory under his control to run into any waterworks belonging to or under the control of the Minister whereby the water then being or thereafter to come therein is fouled, shall be guilty of an offence, and liable to a penalty not exceeding one hundred dollars.

78—Removal of injurious matter on watershed

- (1) If the owner or occupier of any land within the watershed of any reservoir or source of supply vested in the Minister—
 - (a) does or permits or suffers to be done on the land any act, or causes or permits or suffers to be or to remain thereon any matter or thing which, in the opinion of the Minister, is likely to injure the water supply; and

- (b) refuses or neglects or fails to discontinue such act, or to remove the matter or thing, before the day prescribed by the Minister in a notice requiring him so to do,

he shall be guilty of an offence, and liable to a penalty not exceeding ten dollars, and to a further penalty of two dollars for every day after the day so prescribed on which the offence continues.

- (2) If an owner or occupier refuses or neglects or fails to remove any matter or thing after notice so to do has been given to him as mentioned in this section, the Minister or any officer or servant of the Minister, may enter upon the land of the owner or occupier, and may remove, or, in or on the land or elsewhere, bury, burn, or otherwise dispose of, the matter or thing; and the cost thereof shall be a debt due to the Minister from the owner or occupier.

79—Penalty for interfering with meter etc

If any person other than the Minister, or the person authorised by the Minister, fixes, refixes, opens, tampers with, breaks, removes, alters, repairs, or in any manner whatsoever interferes with or damages any meter for measuring the supply of water under this Act, or any pipe or fitting, the property of the Minister, the owner or occupier of the land whereon or wherein the meter, pipe, or fitting is fixed, shall be guilty of an offence and liable to a penalty not exceeding forty dollars, and shall, in addition, pay to the Minister the cost of all necessary repairs, alterations, and replacements, of the meter, pipe, or fitting.

80—Penalty for trespassing

Any person trespassing on any land vested in or occupied by the Minister shall be guilty of an offence, and liable to a penalty not exceeding ten dollars.

81—Penalty for taking timber from public water reserve

Any person who, without the written permission of the Minister first had and obtained, cuts, fells, or removes any trees or timber from any land leased by, under the control of, or vested in the Minister, shall be guilty of an offence, and liable to a penalty not exceeding ten dollars.

82—Penalties for pollution etc to apply to all waterworks

The provisions of this Act relating to the prevention of damage or pollution to any waterworks, waters, or any part thereof, and the penalties in that behalf provided, shall apply to any waterworks which are constructed by the Minister or that may at any time be under the control of or leased by the Minister under the authority of this Act, notwithstanding that the works are not within any water district.

83—Minister not to be personally liable

The Minister shall not be subject to be prosecuted by any person for the exercise of any of the powers conferred upon him by this Act, and the body, goods, or lands of the Minister, shall not be liable to any execution of any legal process by reason of any contract or other instrument entered into by the Minister, or by reason of any other lawful act done by the Minister in the execution of any of his powers.

84—Information and complaints, how laid for stealing etc

In any information or complaint to be made by the Minister against any person who steals or wilfully injures, and in any proceedings to be instituted in relation to, any property or thing belonging to or under the control of the Minister, it shall be sufficient to state generally the property or thing in respect of which the information or complaint is made, or proceedings are instituted, to be the property of the Minister.

85—Actions against Minister etc

- (1) All prosecutions for the recovery or infliction of pecuniary penalties, and all actions to be commenced against the Minister for anything done or omitted to be done in pursuance of this Act, shall be commenced within three months after the happening of the cause of prosecution or action, and not otherwise.
- (2) Notice in writing of any such action and of the cause thereof shall be given to the defendant one month at least before the commencement of the action, and the defendant in any such action may plead the general issue, and give this Act and the special matter in evidence at any trial.
- (3) The plaintiff shall not recover in any such action if tender of sufficient amends is made before action brought, or if after action brought the defendant pays into court sufficient amends; but in such last-mentioned case the plaintiff shall recover his costs of suit up to the time of payment into court. If a verdict passes for the defendant, or the plaintiff becomes non-suit, or discontinues, or the defendant otherwise recovers judgment, he shall recover full costs as between solicitor and client, and have his remedy for the same in the usual way.

86—Service of notice of amount due and method of recovery thereof

- (1) A notice containing particulars of any amount (other than a pecuniary penalty) payable to the Minister by any person under this Act, or any Act repealed by this Act, or under any by-law or notice made or published under this Act or any such repealed Act, 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 or premises with respect to which, or to any meter, pipe, or 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 any such 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 such payment, whether or not the amount is due in respect of rates—
- (a) avail himself for the purpose of recovering the amount of any or all of the methods and remedies provided by this Act for the recovery of rates in arrear; and
 - (b) cut off the supply of water to the land in respect of which, or of any meter or pipe or fitting upon or in which, the amount is payable, until the amount together with all expenses incurred by the Minister in cutting off the supply and the estimated cost of restoring the 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.

87—Amounts due to be a charge on the land

- (1) Any amount (other than a pecuniary penalty) due to the Minister under this Act, or any Act repealed by this Act, or under any by-law or notice made or published under this Act, or any such repealed Act, shall, until payment, be and remain a first charge upon the land with respect to which, or to any meter, pipe, or fitting, upon or in which, such 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) Any such amount shall be payable by and be recoverable from the owner or occupier, for the time being, of the land with respect to which, or to any meter, pipe, or fitting upon or in which, the amount is payable.

88—Existence of communication pipes evidence of contract

The existence of a communication pipe or pipes between a main pipe of the Minister and any land shall, in any legal proceedings, be conclusive evidence that the owner and the occupier of the land for the time being, have severally contracted with the Minister for the supply of water to them respectively, subject to the provisions of this Act and the by-laws made thereunder.

89—Evidence of water district

The production of the Government Gazette containing any proclamation of the constitution of a water district, or any alteration in the boundaries of a water district, shall be conclusive evidence that the water district has been lawfully constituted, or that the boundaries of the water district have been lawfully altered, as the case may be.

90—Powers of councils

Any municipal council or district council may accept any lease under this Act, 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 waterworks so leased.

91—Saving clause

Nothing in this Act contained shall affect the *Waterworks Act 1932* or take from, lessen, or diminish any of the powers belonging to or vested in any municipal council, district council, or board of health.

Schedule—Acts consolidated and repealed

Number and year of Act	Short title
No. 392 of 1886	<i>The Water Conservation Act 1886</i>
No. 463 of 1889	<i>The Water Conservation Amendment Act 1889</i>
No. 736 of 1900	<i>The Water Conservation Amendment Act 1900</i>
No. 1197 of 1915	<i>Water Conservation Act Further Amendment Act 1915</i>
No. 1561 of 1923	<i>Water Conservation Act Further Amendment Act 1923</i>
No. 1993 of 1930	<i>District Water Supply Act 1930</i>

Legislative history

Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Repeal of Act

The *Water Conservation Act 1936* was repealed by Sch 2 cl 19(1)(b) of the *Water Industry Act 2012* on 1.1.2013.

Principal Act and amendments

Year	No	Title	Assent	Commencement
1936	2320	<i>Water Conservation Act 1936</i>	26.11.1936	1.6.1937 (<i>Gazette</i> 25.3.1937 p644)
1969	63	<i>Water Conservation Act Amendment Act 1969</i>	4.12.1969	21.5.1970 (<i>Gazette</i> 21.5.1970 p1841)
1972	79	<i>Statutes Amendment (Valuation of Land) Act 1972</i>	5.10.1972	Pt 6 (ss 111—125)—1.6.1972: s 2
1975	32	<i>Statutes Amendment (Miscellaneous Metric Conversion) Act 1975</i>	3.4.1975	Pt 14 (ss 52 & 53)—15.1.1976 (<i>Gazette</i> 15.1.1976 p174)
1994	59	<i>Criminal Law Consolidation (Felonies and Misdemeanours) Amendment Act 1994</i>	27.10.1994	Sch 2—1.1.1995 (<i>Gazette</i> 8.12.1994 p1942)

Provisions amended since 3 February 1976

- Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 11 of *The Public General Acts of South Australia 1837-1975* at page 393.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Pt 1		
s 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	
s 4	<i>omitted under Legislation Revision and Publication Act 2002</i>	
Pt 4		
s 61	amended by 59/1994 Sch 2	1.1.1995
Pt 5		
s 73	amended by 59/1994 Sch 2	1.1.1995
s 92	<i>deleted by 59/1994 Sch 2</i>	<i>1.1.1995</i>