

SOUTH AUSTRALIA

WATERWORKS ACT 1932

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.

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WATERWORKS ACT 1932

being

Waterworks Act 1932 No. 2101 of 1932 [Assented to 30 November 1932]

as amended by

Waterworks Act Amendment Act 1935 No. 2235 of 1935 [Assented to 12 December 1935]
Statute Law Revision Act 1936 No. 2293 of 1936 [Assented to 8 October 1936]
Waterworks Act Amendment Act 1936 No. 2326 of 1936 [Assented to 26 November 1936]
Waterworks Act Amendment Act 1954 No. 50 of 1954 [Assented to 16 December 1954]¹
Waterworks Act Amendment Act 1956 No. 10 of 1956 [Assented to 18 October 1956]
Waterworks Act Amendment Act 1962 No. 53 of 1962 [Assented to 15 November 1962]
Statutes Amendment (Waterworks and Sewerage) Act 1966 No. 40 of 1966 [Assented to 25 August 1966]
Waterworks Act Amendment Act 1969 No. 64 of 1969 [Assented to 4 December 1969]²
Waterworks Act Amendment Act 1970 No. 59 of 1970 [Assented to 10 December 1970]
Waterworks Act Amendment Act 1971 No. 37 of 1971 [Assented to 22 April 1971]
Statutes Amendment (Valuation of Land) Act 1972 No. 79 of 1972 [Assented to 5 October 1972]³
Rates and Taxes Remission Act 1974 No. 16 of 1974 [Assented to 4 April 1974]⁴
Waterworks Act Amendment Act 1974 No. 44 of 1974 [Assented to 11 April 1974]⁵
Statutes Amendment (Rates and Taxes Remission) Act 1975 No. 98 of 1975 [Assented to 20 November 1975]⁶
Statutes Amendment (Rates and Taxes Remission) Act 1977 No. 55 of 1977 [Assented to 15 December 1977]⁷
Waterworks Act Amendment Act 1978 No. 18 of 1978 [Assented to 23 March 1978]
Statutes Amendment (Water and Sewerage Rating) Act 1981 No. 10 of 1981 [Assented to 5 March 1981]⁸
Statutes Amendment (Valuation of Land) Act 1981 No. 29 of 1981 [Assented to 19 March 1981]⁹
Waterworks Act Amendment Act 1984 No. 18 of 1984 [Assented to 3 May 1984]¹⁰
Valuation of Land Act Amendment Act 1984 No. 88 of 1984 [Assented to 29 November 1984]¹¹
Rates and Land Tax Remission Act 1986 No. 78 of 1986 [Assented to 4 December 1986]¹²
Waterworks Act Amendment Act 1987 No. 39 of 1987 [Assented to 23 April 1987]¹³
Waterworks (Rating) Amendment Act 1991 No. 10 of 1991 [Assented to 28 March 1991]¹⁴
Statutes Amendment (Waterworks and Sewerage) Act 1991 No. 51 of 1991 [Assented to 22 November 1991]¹⁵
Waterworks (Residential Rating) Amendment Act 1992 No. 68 of 1992 [Assented to 19 November 1992]¹⁶
Statutes Amendment (Waterworks and Sewerage) Act 1994 No. 33 of 1994 [Assented to 2 June 1994]¹⁷

¹ Came into operation 1 July 1954: s. 13.

² Came into operation 21 May 1970: *Gaz.* 21 May 1970, p. 1842.

³ Came into operation 1 June 1972: s. 2.

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

⁵ Ss. 3-22 came into operation 1 July 1973: s. 4; ss. 23-44 came into operation 1 July 1974: s. 24.

⁶ Came into operation 1 July 1975: s. 2.

⁷ Came into operation 1 July 1978: s. 2.

⁸ Came into operation 1 July 1980: s. 2.

⁹ Came into operation 30 June 1981: *Gaz.* 4 June 1981, p. 1640.

¹⁰ Came into operation 17 May 1984: *Gaz.* 17 May 1984, p. 1161.

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

¹² Came into operation 1 April 1987: *Gaz.* 26 March 1987, p. 702.

¹³ Came into operation 1 July 1987: *Gaz.* 14 May 1987, p. 1248.

¹⁴ Came into operation 1 July 1991: *Gaz.* 2 May 1991, p. 1435.

¹⁵ 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).

¹⁶ Came into operation 1 December 1992: *Gaz.* 26 November 1992, p. 1620.

¹⁷ Came into operation 1 July 1987: s. 2.

N.B. The amendments effected to this Act by the Statutes Amendment (Water Resources) Act 1991 had not been brought into operation at the date of, and have not been included in, this reprint.

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 relating to water supply.

The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY**

Short title

1. This Act may be cited as the *Waterworks Act 1932*.

Arrangement

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

PART 1—Preliminary.

PART 2—Constitution of water districts.

PART 3—Powers of Minister.

PART 4—Supply of water.

PART 5—Rates.

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PART 7—Power to lease certain waterworks.

PART 8—Miscellaneous.

Acts consolidated and repealed

3. This Act is a consolidation of the Acts mentioned in schedule 1, and the said Acts are hereby repealed.

Interpretation

4. (1) In this Act, except where the subject matter or context or some other provision requires a different construction—

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"**adjacent land**" means—

- (a) land abutting upon part of a street in, or adjacent to, which a gazetted main pipe has been laid; or
- (b) land abutting upon, or traversed by, a gazetted main pipe; or
- (c) land that is, pursuant to section 121 of this Act, deemed to be adjacent land,

but does not include any such land to which the Minister is not prepared to supply water by means of a direct service;

"**consumer**" means any person supplied with water under this Act;

"**consumption year**" means a period of approximately twelve months in respect of which the amount of water supplied to, or in relation to, any land is assessed or measured or such other period during which water has been supplied to, or in relation to, any land as may be determined by the Minister;

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"**country lands water district**" means a water district declared by proclamation under this Act to be a country lands water district;

"**direct service**" in relation to the supply of water in respect of land, means the supply of water to a point determined by the Minister within or adjacent to the boundaries of that land;

"**financial year**" means the period commencing on the first day of July in any year and ending on the thirtieth day of June in the next year;

"**fittings**" includes communication pipes, standpipes, and all other pipes, and also all cocks, valves, siphons, cisterns, tanks, vessels and other apparatus connected to the waterworks;

"**gazetted main pipe**" means a main pipe or part of a main pipe referred to in a notice published or deemed to have been published under section 90 of this Act;

"**land**" includes premises;

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"**owner**" includes the person for the time being receiving, or entitled to receive, the rents and profits of any land, whether on his own account or as agent, trustee, or attorney;

"**payment day**" means the day on which water rates are payable upon land within a water district pursuant to the provisions of section 94 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;

"**quarter**" in relation to a financial year means each of the following periods:—

- (a) the period commencing on the first day of July and ending on the thirtieth day of September; and
- (b) the period commencing on the first day of October and ending on the thirty-first day of December; and
- (c) the period commencing on the first day of January and ending on the thirty-first day of March; and
- (d) the period commencing on the first day of April and ending on the thirtieth day of June;

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"**ratable land**" means—

- (a) adjacent land; and
- (b) land contiguous to adjacent land and subject to the same ownership or occupation; and
- (c) land to which water is supplied directly or indirectly by the Minister; and

- (d) land in respect of which the Minister has, at any time, at the request of an owner or occupier of the land, provided a supply of water to a point, determined by the Minister, from which the land may receive water,

but does not include land to which water is supplied pursuant to an agreement under Part 4 of this Act;

"**stream**" includes a river, creek, brook, spring, lake, aqueduct, conduit, tunnel or any structure through or along which water passes and includes any water in a stream;

"**street**" means every public square, place, road, terrace, and thoroughfare, and any private street;

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

"**water district**" means any water district proclaimed from time to time under this Act, or any Act repealed by this Act, within which water is to be supplied, and also means any other water district constituted before the passing of this Act;

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

"**watercourse**" means the bed of a river, creek or other channel in which water flows whether ordinarily, intermittently or occasionally and any water therein;

"**watershed**" means any area of land for the time being declared by regulation pursuant to subsection (1) of section 9A of this Act to constitute a watershed;

"**watershed zone**" means a watershed Zone I or a watershed Zone II constituted pursuant to subsection (2) of section 9A of this Act;

"**waterworks**" includes all water storages, reservoirs, wells and bores, pumping stations, water treatment stations, tanks, aqueducts, tunnels, pipes and other works for the collection, treatment and distribution of water acquired by or under the control of the Minister and all land acquired by or under the control of the Minister for the purposes of this Act in connection with the supply of water.

(2) For the purposes of this Act, a reference to connection to or disconnection from the waterworks includes a reference to connection to or disconnection from a pipe or fitting through which water is supplied from the waterworks.

Acquisition of Land for waterworks

5. The Minister may, in pursuance of the *Land Acquisition Act 1969-1972*, take and acquire either compulsorily or by agreement, all such lands and easements in or over any lands within or outside any water district which he may require for the purpose of constructing, completing, or extending any waterworks authorised before or after the passing of this Act, or for the construction or extension of which moneys are voted by Parliament.

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Validation, etc.

5A. (1) All water 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 *Waterworks Act Amendment Act 1970*, shall except as provided in subsection (2) of this section 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 *Waterworks Act Amendment Act 1970*, come into operation on the first day of July, 1970.

(2) Nothing in this section shall affect any proceedings in Supreme Court actions No. 992 of 1969 and No. 1095 of 1970 and those proceedings may be continued and judgment may be given therein in all respects as if the *Waterworks Act Amendment Act 1970* had not been enacted.

(3) Any by-law made or purporting to be 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 *Waterworks Act Amendment Act 1970*, come into operation on the day upon which this Act came into operation.

(4) No rate declared in respect of any water district 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 water district.

PART 2
CONSTITUTION OF WATER DISTRICTS

Constitution of water districts

6. (1) The Governor may from time to time by proclamation declare any district, place, or town, to be a water district for the purposes of this Act, and may define the boundaries thereof. The Governor may in like manner add to or alter the boundaries of any water district.

(1a) Every water district constituted by any Act shall until abolished by proclamation continue to be a water district notwithstanding the repeal of the Act.

(1b) The Governor may, by proclamation, declare any water district to be a country lands water district.

(2) The Governor may by proclamation revoke any proclamation under this section as to the whole or any part of any such water district, and may by proclamation abolish or alter any water district constituted by any Act, in which case the district shall be abolished or altered according to the tenor of the proclamation.

(3) The Governor may in any such proclamation fix a day (whether before or after the date of the proclamation) upon which the proclamation shall come into force.

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**PART 3
POWERS OF THE MINISTER**

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Power to appoint and dismiss officers

9. The Governor may from time to time, for the purposes of this Act, appoint any officers and servants, and may at his discretion dismiss such officers and servants and appoint others in their stead.

Watersheds and zones

9A. (1) The Governor may from time to time by regulation—

- (a) declare any land described in the regulation to constitute a watershed for the purposes of this Act; and
- (b) provide a name for the land so declared.

(2) The Governor may from time to time by regulation declare any land within a watershed to constitute—

- (a) a watershed Zone 1; or
- (b) a watershed Zone 2.

Regulations

10. (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 regulating the conduct of the officers and servants appointed or employed under or for the purposes of this Act:
- II. for regulating the form of contracts to be entered into with him, and generally for carrying into effect the purposes of this Act:
- III. for determining, making, levying, and collecting the water rates to be paid in each water district, in respect of land liable to be rated under this Act:
- IV. for fixing the terms and conditions upon which he will supply water:

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- V. for fixing or empowering the Minister to fix charges or fees (including minimum charges or fees)—
 - (a) for the supply of water by the Minister; and
 - (b) for the provision of works or services by the Minister; and

- (c) for inspections made by the Minister pursuant to this Act or at the request of an owner or occupier of land; and
 - (d) otherwise in relation to the administration of this Act:
- VA. 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:
- VI. for determining the times at which any charge for water supplied under agreement shall be payable, whether in advance or otherwise:
- VII. for imposing an extra charge for water supply in places distant more than 15 metres from the main pipe:
- VIII. for regulating the—
 - (a) specifications, construction, number and position of pipes, fittings, appliances, and apparatus connected to the waterworks;
 - (b) installation and inspection of pipes, fittings, appliances and apparatus connected to the waterworks:
- IX. for regulating the construction, disposition, and inspection of meters, and for requiring that, for the purpose of permitting the reading of meters, meters shall be kept free from obstruction:
- X. for regulating the quantity of water each consumer is in each year entitled to use in respect of his rates:
- XI. for preventing the waste or misuse of water, whether supplied by meter or otherwise:
- XII. 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, such pipes or fittings without the consent of or notice to the Minister; for repairing such pipes, fittings, and appliances so as to prevent waste of water, and for recovering the costs of such repairs:
- XIII. for preventing unauthorised persons using, directly or indirectly, water supplied by the Minister:
- XIV. for licensing competent plumbers and for 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 of the Minister; and imposing penalties on licensed plumbers for breach of any of the regulations:
- XV. for preventing persons from wilfully or negligently breaking, injuring, or from interfering with any pipe, lock, cock, valve, engine, or work belonging to the Minister, and from doing any other wilful act whereby the water supplied by the Minister may be wasted:
- XVI. for regulating or preventing the sale or use of pipes, fittings, appliances or apparatus that are capable of being connected to the waterworks:

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- XVIII. for fixing a scale of fees and expenses which may be recovered for the service of any notice or the levying of any distress by any bailiff or other person:
- XIX. for fixing scales of costs and charges for the alteration of water services, levels of topstones, valve and fire plug chambers and cast iron meter boxes and the position of pillar hydrants and indicator posts, or other similar work, to conform to the surface levels of the roadworks:
- XX. for regulating, controlling or preventing the impairment of the quality of water supplied by the Minister or that is within a watershed, watershed zone or waterworks:
- XXI. for regulating, controlling or prohibiting the use of any stream or watercourse within any watershed or watershed zone:
- XXII. for regulating, controlling or prohibiting the obstruction or diversion of any stream or watercourse within any watershed or watershed zone:
- XXIII. for regulating, controlling or prohibiting the placing, entry or disposal of any substance, thing or matter in any stream or watercourse within a watershed or watershed zone:
- XXIV. for regulating, controlling or prohibiting the use of any land within a watershed or within a watershed zone so as to reduce or prevent the deterioration or pollution of any water within a watershed or watershed zone.

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

- (a) empower the Minister to authorise the sale or use of pipes, fittings, appliances or apparatus, 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.

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

(2a) 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).

(2b) The regulations may impose a penalty not exceeding two thousand dollars for contravention of, or failure to comply with, a regulation.

(2c) 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.

(3) Any by-law in force under this section immediately before the enactment of this subsection shall be deemed to be a regulation under this section and, unless revoked shall remain in force.

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Power to make contracts

11. The Minister may make and enter into any contracts and agreements with any person for the purchase of any lands or easements in or over any land, or for any materials, and for the construction of any works which are authorised to be made under and in pursuance of the provisions of this Act. All such contracts shall be in the name of the Minister.

Power of Minister to do certain acts and execute certain works

12. (1) For the purpose of constructing, completing, extending, or maintaining any waterworks, or for supplying water to or in any water district, or for the purpose of making any examination or test of any land for the purpose of ascertaining whether that land is suitable for the construction thereon of any waterworks which are proposed to be constructed, or for any incidental purpose, or otherwise for the purpose of carrying out the provisions of this Act, the Minister may exercise any of the powers following, that is to say—

- I. He may enter upon any lands and take levels of the same, and set out such parts thereof as he shall think necessary, and dig, break, and trench the soil of such lands, and remove or use all earth, stone, minerals, trees, or other things dug or obtained out of or from the same:
- II. He may enter upon, take, and hold, either temporarily or permanently, such lands as he may from time to time deem necessary for the construction, maintenance, repair, or improvement of any waterworks authorised or for the construction of which money is voted by Parliament, or for obtaining or enlarging the supply of water, or for improving the quality thereof, or otherwise for the purposes of this Act:
- III. He may from time to time sink such wells or shafts, and make, maintain, alter, or discontinue such reservoirs, waterworks, cisterns, tanks, aqueducts, drains, cuts, sluices, pipes, culverts, engines, and other works, and erect such buildings upon the lands, streams, and watercourses authorised to be taken by him as he thinks proper for supplying the inhabitants of any water district with water:
- IV. He may from time to time divert and impound the water from any streams or springs as he may think fit, and alter the courses of the same, and also take the water of such streams or springs and also such waters as may be found in, under, or on any lands so to be taken for the purposes of this Act:
- V. He may enter upon any Crown or private lands, streets, roads, or thoroughfares, and lay or place therein any pipes, and may repair, alter, cut off, or remove the same, and may enter upon any such lands, streets, roads, or thoroughfares for the purpose of repairing any watercourses, pipes, or other works, being his property or under his control:
- VI. He may enter upon any lands within a watershed and execute such works, make such tests, do such things and make such alterations to the said lands as are in his opinion necessary to reduce, eliminate or destroy any agencies, things or substances which in his opinion are likely to be conveyed to watercourses, streams, reservoirs or other waterworks and infest or impair the quality of any water therein.

(2) In the exercise of any of the powers conferred by this section the Minister shall inflict as little damage as may be, and in all cases, where he can conveniently do so, shall provide other watering-places, drains, and channels for the use of adjoining lands, in place of any taken away or interrupted by him, and shall make full compensation to all parties interested for all damage sustained by them through the exercise of such powers.

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(3) The Minister shall not be liable to make compensation in respect of any damage sustained by reason of the taking or diverting of water permanently or otherwise from any river, stream, or watercourse, unless a claim in writing is made in respect of such compensation within twelve months after any damage has been caused. In every case where the Minister cannot agree with the owner or claimant, the amount of compensation shall be ascertained, and the case, in other respects, shall be dealt with under the provisions of the *Land Acquisition Act 1969-1972*.

(4) No park lands, or other lands under the control of any municipal corporation or district council shall be entered upon, taken, and held pursuant to this section, unless the consent in writing of the municipal corporation or district council having the control thereof is obtained.

Reversion of lands to councils

13. If from any cause whatever the occupation by the Minister of any park lands or reserve for the purposes of this Act shall at any time cease, the care, control, and management of the park lands or reserve shall revert to the municipal corporation or district council from which the same shall have been taken.

Construction of accommodation works

14. (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 lands adjoining or near any part of the works or otherwise necessary for the accommodation of such lands.

(2) If any difference arises respecting the number, kind, size, dimensions, or sufficiency of any such accommodation works, or respecting the maintenance thereof, the same shall be determined by a court of summary jurisdiction. The court shall have jurisdiction to make such order as it deems just, but the court shall not have power to decide as to the liability of the Minister to construct any accommodation works in cases where that liability is disputed.

Power to break up streets

15. The Minister may—

- (a) open and break up the soil and pavement of the several streets and bridges within or beyond the limits of any water district; and
- (b) open and break up any sewers, drains, or tunnels, within or under such streets and bridges; and
- (c) lay down and place within or beyond the limits of any water district, pipes, conduits, service-pipes, and other works and engines, and from time to time repair, alter, or remove the same; and
- (d) for any of the purposes aforesaid, remove and use all earth and materials in and under such streets and bridges; and
- (e) do all other acts which the Minister shall from time to time deem necessary for supplying water to the inhabitants of any water district.

Notice before breaking up streets

16. Before the Minister opens or breaks up any such street, bridge, sewer, drain, or tunnel, he shall, except in cases of emergency arising from defects in any of the pipes or other works, give to the persons or authority under whose control or management the same may be, or to their clerk, surveyor, or other officer, notice in writing of his intention to open or break up the same, not less than twelve hours before beginning such work.

Reinstatement of streets

17. (1) When the Minister opens or breaks up the road or pavement of any street or bridge, or any sewer, drain, or tunnel, he shall, with all convenient speed, complete the work for which the same shall be broken up and fill in the ground, and reinstate and make good the road or pavement, or the sewer, drain, or tunnel so opened or broken up, and carry away the rubbish occasioned thereby.

(2) The Minister shall at all times whilst any such road or pavement is so open or broken up cause the same to be guarded, and shall cause a light sufficient for the warning of passengers to be set up and kept there for every night during which such road or pavement continues open or broken up.

(3) The Minister shall, after replacing and making good the road or pavement which is broken up as aforesaid, keep the same in good repair for six months thereafter.

Delay in reinstating streets

18. If the Minister—

- (a) opens or breaks up any such street, bridge, sewer, drain, or tunnel, without giving such notice as aforesaid, or without making such temporary or other works as aforesaid, when so required, except in cases in which he is authorised to perform such works without any notice; or
- (b) makes any unnecessary delay in completing any such work, or in filling in the ground, or reinstating and making good the road or pavement, or the sewer, drain, or tunnel so opened or broken up, or in carrying away the rubbish occasioned thereby; or
- (c) neglects to cause the place where such road or pavement has been broken up to be guarded and lighted; or
- (d) neglects to keep the road or pavement in repair for the space of six months next after the same is made good,

the Minister shall forfeit to the authority or persons having the control or management of the street, bridge, sewer, drain, or tunnel in respect of which such default is made, a sum not exceeding five hundred dollars for every such offence, and an additional sum of fifty dollars for each day during which any such delay as aforesaid shall continue after he shall have received notice thereof.

Power of other persons to reinstate streets

19. If any such delay or omission as aforesaid takes place, the authority or persons having the control or management of the street, bridge, sewer, drain, or tunnel in respect of which such delay or omission takes place, may, upon giving notice in writing to the Minister, cause to be executed the work so delayed or omitted, and the expense of executing the same shall be repaid by the Minister to, and may be recovered by, such authority or persons.

Power to take temporary possession of land

20. (1) The Minister, and all persons by him authorised, may enter upon any lands, not being a garden, orchard, or plantation attached or belonging to a house, nor a park, planted walk, avenue, or ground ornamentally planted, and not being nearer to the house of the owner of any such lands than 100 metres therefrom, and may occupy the said lands so long as may be necessary for the construction or repair of any waterworks, and to use the same for any of the following purposes, that is to say:—

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- I. For the purpose of taking earth or soil by side cuttings therefrom; or
- II. For the purpose of depositing soil thereon; or
- III. For the purpose of obtaining materials therefrom, for the construction or repair of the waterworks; or
- IV. For the purpose of forming roads thereon to, or from, or by the side of, the said works.

(2) In the exercise of the said powers the Minister, and all other persons employed therein, may—

- (a) deposit and manufacture and work upon such lands, materials of every kind used in constructing or repairing the said works; and
- (b) take from any such lands any timber, and dig and take from or out thereof any clay, stone, gravel, sand, or other things that may be found therein useful or proper for constructing or repairing the said works or any such roads as aforesaid; and
- (c) for the purposes aforesaid, erect thereon workshops, sheds, and other buildings of a temporary nature.

(3) Nothing in this Act contained shall exempt the Minister from an action for nuisance or other injury (if any) done, in the exercise of the powers hereby conferred, to the lands or habitations of any party other than the party whose lands shall be so taken or used for any of the purposes aforesaid.

Duty of Minister to separate lands before using them

21. If any such lands are used by the Minister for any of the purposes aforesaid he shall, if required so to do by the owner or occupier thereof, separate the same by a sufficient fence from the lands adjoining thereto, with such gates as may be necessary for the convenient occupation of such lands, and, in case of any difference between the owners or occupiers of such lands and the Minister as to the necessity for such fences and gates, then with such fences and gates as a court of summary jurisdiction may order for the purposes aforesaid.

Compensation for temporary occupation

22. In any of the cases aforesaid where the Minister takes temporary possession of lands by virtue of the powers herein granted, it shall be incumbent on him, within one month after his entry upon such lands, upon being required to do so, to pay to the occupier of the said lands the value of any crop that may be thereon, as well as full compensation for any other damage of a temporary nature which he may sustain by reason of the Minister so taking possession of his lands. If there is any dispute as to the said value, the same shall be settled in the manner provided by the *Land Acquisition Act 1969-1972*, for settling questions of compensation.

Vesting of waterworks, etc., in Minister

23. The whole of the waterworks, and all lands, goods, materials, and things which form part thereof, shall be and be deemed to be the property of the Minister, and shall be held and used by him for the purposes of this Act.

Power of Minister to make payments

24. (1) The Minister may, out of any moneys at his disposal under this Act, pay any sum due by him under any agreement lawfully made for or in accomplishing any of the purposes of this Act, and any sum recovered against him by any process of law.

(2) The Minister shall not be personally liable to pay or make good any sum of money which shall at any time be recoverable from or be due by him as Minister 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.

Power of Minister to delegate his powers

25. (1) The Minister may authorise such person as he thinks proper to do all or any of the acts, matters, and things which the Minister is hereby 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; and 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 such act, matter, or thing.

Power to lease and sell surplus land and property

26. (1) The Minister may demise any land purchased by him, 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 purposes of the waterworks, and may transfer or convey such land or other property to the purchaser, or as he directs.

(2) The Minister's receipt shall be a sufficient discharge to the purchaser for the purchase-money in such receipt expressed to be received, and the rent of land demised.

(3) The money accruing from the sale or other disposition of the property sold or disposed of 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 4
SUPPLY OF WATER AND PROTECTION OF FITTINGS AND WORKS

Free supply to the Adelaide and Port Adelaide Corporations for public purposes

27. The Minister shall, unless prevented by unusual drought or other unavoidable cause or accident, or during necessary repairs, supply to the Corporations of the City of Adelaide and the City of Port Adelaide, free of charge, sufficient water for watering the streets of the City of Adelaide and the township of Port Adelaide, and also for the use of all lands and buildings situate within the said city and township and occupied and used by either of such corporations exclusively for public purposes.

Duty of Minister to fix public fireplugs in the mains

28. (1) The Minister shall, within every water district, fix proper fireplugs in the main and other pipes belonging to him, at such distances and at such places as he may consider proper and convenient for the supply of water for extinguishing any fire which may break out within any such district.

(2) The Minister shall from time to time renew and keep in effective order every such fireplug, and shall, so soon as any such fireplug is completed, deposit a key thereof at each fire-reel station within such district.

(3) The cost of such fireplugs and the expenses of fixing and maintaining the same in repair (except in the Adelaide water district) shall be defrayed by the council of the municipality or district within the boundaries of which the plugs are fixed.

Fireplugs for manufactories, etc.

29. The Minister may, at the request and expense of the owner or occupier of any manufactory or other premises situated in or near any street in which, or within 100 metres of which, there is a pipe of the Minister, place as near as conveniently may be to such manufactory or premises, and maintain in effective order a fireplug to be used only for extinguishing fires. The Minister shall supply a key of every such fireplug to the said owner or occupier, but the fireplug shall not be opened or used by him except for the purpose of aiding in extinguishing fires within the water district.

Duty to keep pipes charged

30. The Minister shall at all times, unless prevented by drought or other unavoidable cause or accident, or during necessary repairs, keep charged with water all his pipes to which fireplugs are fixed, and shall allow all persons at all times to take and use such water for the purpose only of extinguishing fire within the water district.

Duty to distribute constant supply of water

31. (1) The Minister shall, in each water district, unless prevented by unusual drought or other unavoidable cause or accident, distribute, to all persons entitled thereto under this Act, a constant supply of water in the manner prescribed by this Act.

(2) The Minister shall not be liable to supply water to any person in any street within the water district until after a main pipe has been laid down in such street.

Power to use water for any district

31A. The Minister may use water stored in any waterworks in any water district for the supply of water in that or any other water district.

Power to cut off water supply from unoccupied land

32. The Minister may cut off the water supply from any land when the same has remained unoccupied for three months, and whenever the land is occupied the water supply shall, on demand made in writing by the owner or occupier thereof, be restored upon payment of the cost of such cutting off and restoration. Cutting off the water shall not relieve the owner or occupier of any such land from any liability to pay water rates in respect thereof.

Power to lessen or discontinue supply

33. Whenever the quantity of water stored in any reservoir has been diminished to such an extent as to render it necessary or expedient in the opinion of the Minister to lessen the quantity of water supplied, he may, with the sanction of the Governor, and after giving public notice of his intention so to do—

- (a) lessen the supply of water throughout the whole or any part of any water district, to such extent, for such time, and in such manner as he shall think proper; or
- (b) lessen the supply to any particular class or classes of consumers supplied under agreement; or
- (c) for such time as he shall think proper, discontinue the supply for any particular purpose.

Supply to groups of houses

34. (1) Whenever it appears to the Minister that a constant supply of water can be effectually and more economically provided for any group or number of dwelling-houses situate in a court, passage, lane, or alley, within the water district, by means of a standpipe or other fitting fixed outside such dwelling-houses, he may provide, erect, and fix in readiness for use by the owners or occupiers of such group or number of dwelling-houses, and shall renew or repair, a standpipe, or other fittings, and shall afford and distribute by means thereof a constant supply of water to the owners or occupiers of such group or number of dwelling-houses.

(2) The said owners or occupiers, but not any other person, shall be entitled to take, consume, and use in the said group, or number of dwellinghouses, but not elsewhere, such constant supply; and the Minister shall be entitled to receive and recover from such owners or occupiers water rates, in the same manner and to the same amount as if water had been supplied to each of such dwelling-houses in the ordinary manner provided by this Act.

(3) The expense of providing, erecting, and fixing in readiness for use such standpipe or other fittings, and of renewing or repairing the same from time to time, shall be borne by the owner of such group or number of dwelling-houses, or, if they belong to more than one owner, then by the respective owners thereof, in such proportions as the Minister shall determine and by notice require.

Supply of water

35. (1) Save in the cases provided for by section 34 of this Act, where the Minister receives from the owner or occupier of land a written request for the supply of water in respect of the land the Minister—

- (a) where the land is adjacent land, shall upon payment of the fee fixed by or under this Act provide and lay down a direct service for the supply of water in respect of the land; and
- (b) in any other case, may upon payment of the fee fixed by or under this Act, provide a supply of water to a point determined by the Minister, from which the land may receive a supply of water.

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(1a) The Minister

- (a) may, upon payment of the fee fixed by or under this Act, provide and lay down additional services to land where he has been requested to do so by the owner or occupier of the land; or
- (b) may, without being requested to do so by the owner or occupier of land, provide and lay down additional services to the land so that the number of services to that land will comply with the prescribed ratio.

(1b) The Minister's costs in providing and laying down a service pursuant to subsection (1a)(b) shall be paid by the owner or occupier of the land concerned.

(1c) The Minister may, by notice in the *Gazette*, fix an annual charge payable by the owner or occupier of land in respect of additional services provided to land and may, by subsequent notice in the *Gazette*, vary or revoke a notice published under this subsection.

(2) Where pursuant to subsection (1) of this section the Minister has provided a supply of water, in respect of any land, to a point determined by him, the owner or occupier of the land shall where necessary at his own cost and expense lay a pipe to the satisfaction of the Minister from that point to the land in respect of which the supply is so provided.

Power to erect stand pipes and sell water

36. The Minister may erect standpipes at any place within or beyond the limits of any water district, and may, from any standpipe or from any hydrant, sell water by measure to any persons, at such price, at such times, and upon such conditions as he shall think fit.

Power to make agreement to supply water by measure

37. (1) The Minister may, instead of levying water rates upon any land in pursuance of this Act, enter into an agreement with the owner or occupier of the land to supply him upon that land with water by measure at such rates, upon such terms, and subject to such conditions, as may from time to time be determined by the Minister.

(2) The Minister and every other party to each such agreement shall be deemed to have entered into the agreement subject to the provisions of this Act. The owner or occupier of the said land, and every subsequent owner and occupier thereof, shall hold or occupy the same subject to such agreement, and be bound by the same agreement as if parties thereto.

(3) The land to which water shall be supplied to the owner thereof under any such agreement shall be charged with the moneys from time to time due to the Minister for water so supplied, and such moneys shall be deemed to be and shall be recoverable as water rates.

(4) In any legal proceedings an apparently genuine document purporting to be signed by or on behalf of the Minister and stating that a quantity of water specified in the document has been supplied in pursuance of an agreement under this section shall be deemed, in the absence of proof to the contrary, to be proof of the fact that that quantity of water has in fact been supplied in pursuance of an agreement with the person named in the document.

Prohibition against laying gaspipes and tramrails

38. No person shall lay any gaspipe in any trench with, or close alongside, any main pipe of the Minister, nor lay any tramrail along the line of and immediately above a main pipe without the consent of the Minister. If any person without such consent, so lays any such gaspipe or tramrail and refuses to remove the same when required by the Minister so to do, he shall be liable to a penalty not exceeding five hundred dollars and a further penalty of fifty dollars for each day (if more than one) that the offence continues.

Power of Minister to let meters, etc.

39. (1) The Minister may let for hire, to any consumer of water supplied under agreement, any meter or instrument for measuring the quantity of water supplied and consumed, and any pipes, fittings and apparatus for the conveyance, reception, or storage of the water, for such remuneration in money and upon such terms as may be agreed upon between the Minister and the consumer, and all money due in respect of such hiring shall be recoverable in the same manner as rates due to the Minister for water.

(2) The said meters, instruments, pipes, fittings and apparatus shall not be attached, or taken in execution under any process of any court of law, or under or in pursuance of any order in insolvency, or other legal proceedings against or affecting the consumer of the water or other person in whose possession the meters, pipes, instruments, fittings or apparatus may be.

Fixing, repairing, or interfering with meter

40. No other person than the Minister shall provide any meter for the supply of water under this Act, and no other person than the Minister, or the person authorised by him, shall fix, refix, open, remove, alter, repair, or interfere with any such meter.

Power to charge use of meter

41. (1) The Minister may, by notice published in the *Government Gazette*, prescribe an annual fee to be paid for the use of meters for measuring the supply of water under this Act, in all cases, or in such class or classes of cases as are specified in such notice: and such fees shall be payable accordingly.

(2) Any notice published under this section at any time during the currency of the period of twelve months ending on the thirtieth day of June, in any year, may fix the annual fee to be paid for the use of meters during the whole of that period.

Procedure on failure of meter

42. If at any time the Minister has reason to believe that any meter connected to the waterworks for the purpose of measuring water supplied to land is not correctly indicating, or has not correctly indicated, the quantity of water supplied to such land during any particular period, the Minister may assess the amount of water supplied during that period at an amount not exceeding the fair average amount of water supplied in respect of the said or any similar land during any previous periods and any liability for the payment of rates, or of any amount in pursuance of an agreement, shall be determined as if that amount of water had been actually supplied.

Interfering with or by-passing meter

43. (1) Where the Minister is unable to determine the quantity of water that he has supplied to any land because—

- (a) the meter installed for measuring that water has been removed; or
- (b) the water, or part of the water, has been supplied by means of a pipe that by-passes the meter; or
- (c) the meter has been altered, interfered with or damaged,

the person who removed, altered, interfered with or damaged the meter or who installed a pipe by-passing the meter and the owner and occupier of the land so supplied with water shall be guilty of an offence.

Penalty: Two thousand dollars.

Waterworks Act 1932

(2) It shall be a defence to a prosecution for an offence under subsection (1) for the defendant to prove—

- (a) that the person who removed, altered, interfered with or damaged the meter or who installed a pipe by-passing the meter did so with the authority of the Minister;
- (b) in the case of a defendant who is the owner or occupier of the land concerned—
 - (i) that he did not know and had no reason to suspect that the commission of an offence under subsection (1) had occurred or was likely; or
 - (ii) that immediately after he first became aware or suspected that an offence under subsection (1) had occurred or was likely he informed the Minister in writing of that fact.

(3) A person convicted of an offence under subsection (1) is liable to pay to the Minister his costs arising from the offence in replacing the meter, removing a pipe by-passing the meter or repairing or reinstating the meter to its original condition.

Duty of consumer to keep pipes and fittings within his premises in repair

44. Every person supplied with water by the Minister shall keep such part of the communication pipe, and the stopcock, drains, and other works and fittings as shall be within his own premises, in good repair, so as effectually to prevent the water from running to waste, or the collection therein of unwholesome matter. In case any person neglects to keep the same in good repair, the Minister may, in addition to any other remedy he may possess, cut off the pipe, or turn off the water from the premises of such person, until such stopcock or other works or fittings shall be provided or repaired, as the case may require.

Alteration, etc., to pipes, fittings, etc.

45. (1) The owner or occupier of any land supplied with water by the Minister, or any consumer of water of the Minister, or any other person, shall not affix, or cause or permit to be affixed, any pipe, fitting, or apparatus to a pipe belonging to or used by such owner or occupier, consumer, or any other person, or make any addition to or alteration in any such communication or service pipe, fitting, or apparatus connected therewith, without the consent, in every such case, of the Minister.

(2) If any person acts in any respect in contravention of the provisions of this section, he shall, for every such offence, be liable to a penalty not exceeding one thousand dollars, without prejudice to the right of the Minister to recover damages from him in respect of any injury done to his property, and without prejudice to the Minister's right to recover from him the value of any water wasted or misused.

Use of fittings

46. (1) No person shall use or place in or upon, or affix or attach to, or permit to be used or placed in or upon or affixed or attached to, any lands supplied or to be supplied with water under this Act, for the purpose or with the intent of thereby using, taking, conveying, or delivering such water, any bath, watercloset, soilpan, receptacle fitting, appliance or apparatus other than in accordance with this Act or as permitted by the Minister.

(2) Any person who does or permits any act in contravention of this section shall be liable to a penalty not exceeding one thousand dollars for each offence.

Powers of entry and inspection

47. (1) Any officer of the Minister may, at all reasonable times, enter upon any land, to which water is supplied by the Minister under agreement or otherwise and into any building or structure upon the land, for the purpose of examining and ascertaining, and may examine and ascertain, whether there has been or is any waste, misuse, fouling, or contamination of such water, and what quantity of water has been consumed there, and whether all baths, waterclosets, soilpans, receptacles, fittings, appliances and apparatus, and the materials and mode of arrangement thereof, used or intended to be used on the land or in the building or structure for the purpose of conveying, delivering, or receiving water supplied, or about to be supplied, by the Minister are in every respect in accordance with this Act, and are in proper order and repair, and that they are used only for the purposes for which they may be lawfully used under this Act.

(2) If on such examination, any bath, watercloset, soilpan, receptacle, fitting, appliance or apparatus is found to be out of proper order or repair, or the mode of arrangement thereof is not in accordance with this Act, the Minister may, without prejudice to any other power or remedy which he may have under this Act, give notice to the occupier or owner of such land, building or structure to repair or alter the same.

(3) If any such occupier or owner fails or neglects to comply with such notice, or if any officer of the Minister is at any reasonable time refused admission upon land or into a building or structure on the land, when such admission is claimed for any of the purposes mentioned in this section, or is obstructed in or hindered from doing all or any of the acts by this section authorised to be done, the Minister may cut off the water from such land, and shall not be bound to supply water thereto again except at such times and upon such conditions (including payment of the expenses of cutting off and restoring such water) as he thinks proper to prescribe, but the owner or occupier of such land shall, nevertheless, continue liable to pay water rates as theretofore.

Exemption of pipes and fittings from distress

48. No pipe or fitting attached to or connected with any of the pipes of the Minister shall be seized or taken in execution by process of law or under distress for rent.

Unauthorised fittings

49. Any person, being an owner or occupier of land supplied with water under this Act who—

- (a) for the purpose of taking in a manner not authorised by this Act any such water, uses in or places on, or affixes or attaches to, such land, or to any prescribed fitting, or wilfully permits to be used in or placed on, or affixed or attached to such land, or to any fitting, any instrument or thing not authorised in that behalf by the Minister; or
- (b) alters, misuses, injures, or removes any prescribed fitting, except for the purpose of necessary repairs,

shall be liable to a penalty not exceeding one thousand dollars, without prejudice to the right of the Minister to recover from him damages in respect of any injury by such owner or occupier done or wilfully permitted to be done to the Minister's property, and without prejudice to the Minister's right to recover from him the value of any water wasted, misused, or unduly consumed.

Penalty for breaking fittings

50. Every person who, not being authorised thereto by the Minister—

- (a) wilfully or carelessly breaks, injures, or opens, or wilfully permits to be broken, injured, or opened, any lock, cock, valve, pipe, or other fitting, or any work or engine belonging to the Minister; or
- (b) flushes, or draws off the water from the reservoirs or other works of the Minister; or

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- (c) does any other wilful act, or wilfully permits to be done any act whereby such water shall be wasted,

shall be liable to a penalty not exceeding one thousand dollars and in addition shall be liable to pay to the Minister the amount of damage to which the Minister may be put in respect thereof, as well for the value of the water wasted as in repairing such fittings or other parts of the works, and the amount of such damage shall be ascertained, determined, and recovered in the same manner as such penalty and may be recovered and ordered to be paid by the court imposing such penalty in the same proceedings.

Duty to give notice before paving street, etc.

51. (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 water main, water service or waterwork 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 new water main, water service or waterworks proposed in the said street or of any resultant interference with existing water mains, water services or waterworks.

(3) Should any work referred to in subsection (1) of this section involve any alteration to any water main, water service or waterworks being the property of the Minister 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 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 water main, water service or waterworks the property of the Minister, 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 water main, water service or waterworks the property of the Minister 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) of this section involve any alteration to any water main, water service or waterworks being the property of the Minister and the Minister is of the opinion that any water main, water service or waterworks 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.

Penalty for contravention of Act

52. If any person supplied with water by the Minister wrongfully does, or causes or permits to be done, anything in contravention of any of the provisions of this Act, or fails to do anything which, under any of those provisions, ought to be done for the prevention of the waste, misuse, or contamination of the water of the Minister, he shall be liable to a penalty not exceeding two thousand dollars.

Penalty for wasting water, etc.

53. If any person supplied with water by the Minister wastes any water, or wilfully or negligently causes or suffers any pipe, valve, cock, cistern, bath, soilpan, watercloset, tank, vessel or other apparatus, or appliance or receptacle, to be out of repair, or to be so used or contrived that the water supplied to him by the Minister is, or is likely to be, wasted, misused, or contaminated, or so as to occasion or allow the return of foul air, or other noisome or impure matter, into any pipe belonging to or connected with the pipes of the Minister, he shall for every such offence be liable to a penalty not exceeding one thousand dollars.

Power of Minister to cut off water

54. If any person supplied with water by the Minister, under agreement or otherwise, fails to pay on demand any water rates, or other moneys due by him to the Minister, or due in respect of the land occupied by such person, or in the opinion of the Minister commits a breach of any of the provisions of this Act, the Minister may, without prejudice to any other of his rights, powers, or remedies, cut off the supply of water to such person, and refuse to restore the same until all water rates and other moneys so due, and all penalties which have been inflicted, together with the expenses of cutting off and restoring such water, have been paid.

Unlawfully taking water

55. If any person, not being supplied with water by the Minister, wrongfully takes or uses any water from any reservoir, watercourse, conduit, or pipe, belonging to the Minister, or from any pipe leading to or from any such reservoir, watercourse, conduit, or pipe, or from any cistern or other like place containing water belonging to the Minister, or supplied by him for the use of any consumer, he shall be liable to a penalty not exceeding one thousand dollars.

Pollution of streams, etc.

56. A person shall not—

- (a) bathe; or
- (b) throw, convey or suffer or permit to be thrown or conveyed any rubbish, dirt, filth or other noisome thing; or
- (c) wash or clean any cloth, wool, leather or skin of any animal or any clothes or other things,

in any stream or watercourse within a watershed or in any waterworks wherever situated.

Penalty: Two thousand dollars.

Waterworks Act 1932

Allowing contaminated water to flow into streams

57. If any person causes the water from any sink, sewer or drain or water from any steam, diesel or other engine, or water otherwise contaminated or any domestic, industrial or agricultural liquid or material of any kind belonging to him, or under his control to run, or be brought into any stream or watercourse within a watershed or into any waterworks wherever situated he shall be liable to a penalty not exceeding two thousand dollars.

Reduction and prevention of the pollution of water

58. (1) If the Minister is satisfied that any action or the discontinuance of any action by the owner or occupier of any land within a watershed is necessary or desirable for the purpose of reducing, limiting or preventing the fouling or pollution of any water within a watershed, he may issue a notice to that owner or occupier directing him to take or discontinue any action specified in the notice within the time specified in the notice.

(2) If an owner or occupier served with a notice pursuant to this section fails fully to execute the directions specified therein within the time specified in the notice the Minister may enter the land and do the work specified in the notice, and may recover the cost of such work from the owner or occupier as a debt due to the Minister.

(3) Any owner or occupier served with a notice pursuant to this section who fails fully to comply with the directions specified in the notice within the time specified in the notice shall be guilty of an offence and liable to a penalty not exceeding five hundred dollars and a further penalty of fifty dollars for each day on which the offence is continued.

Waste material from gasworks

59. Every person making or supplying gas within the limits of a water district, who at any time causes or suffers to be brought or to flow into any stream, reservoir, aqueduct, or waterworks belonging to the Minister, or into any drain, communicating therewith, any washing or other substance which is produced in making or supplying gas, or who wilfully does any act, connected with the making or supplying of gas, whereby the water in any such stream, reservoir, aqueduct, or other waterworks is fouled, or the pipes or conduits thereof injured, shall forfeit to the Minister the sum of two thousand dollars, to be recovered with full costs of suit in the Supreme Court for each day during which such washing or other substance is brought or flows as aforesaid, or during which the act continues by which such water is fouled, after the expiration in either case of twenty-four hours from the time when notice of offence has been served on such person by the Minister.

Pollution caused by gasmaker

60. If the water supplied by the Minister is fouled by the gas of any person making or supplying gas within any water district, such person shall be liable to a penalty not exceeding two thousand dollars.

Power to examine gaspipes to ascertain cause of water being fouled

61. (1) For the purpose of ascertaining whether the water of the Minister is fouled by the gas of any person making or supplying gas within any water district, the Minister may dig up the ground and examine the pipes, conduits, and works of the persons making or supplying gas.

(2) At least twenty-four hours before proceeding so to dig and examine, the Minister shall give notice in writing to the person so making or supplying gas of the time at which the digging and examining is intended to take place, and shall give the like notice to the persons having the control or management of the roads, pavements, or place where such digging shall take place.

(3) The Minister shall be subject to the like obligation of reinstating the road, pavement, or place, and to the same penalties for delay or any non-feasance or misfeasance therein, as hereinbefore provided with respect to roads and pavements broken up by the Minister for laying pipes.

(4) If upon such examination it appears that such water has been fouled by any gas belonging to such person, the expenses of the digging, examination, and repairs of the road, pavement, or place disturbed in any such examination shall be paid by the person making or supplying gas, but if upon such examination it appears that the water has not been fouled by the gas of such person, then the Minister shall pay all the expenses of the examination and repair, and also make good to the said person any injury which may be occasioned to his works by such examination.

Injury to or obstruction of works

62. Every person who—

- (a) wilfully obstructs any person acting under the authority of the Minister in setting out the line of any works undertaken under the authority of this Act; or
- (b) pulls up or removes any poles or stakes driven into the ground for the purpose of setting out the line of such works; or
- (c) destroys or injures any works so undertaken as aforesaid,

shall be liable to a penalty not exceeding five hundred dollars.

Penalty for illegally diverting water

63. (1) After any stream or supply of water has been diverted, impounded, or taken by the Minister, under the authority of this Act, every person who illegally, or without authority of the Minister, diverts or takes any water supplying or flowing into the stream or source of supply so diverted, impounded, or taken by the Minister, or who does any unlawful act whereby any such stream or supply of water may be diverted or diminished in quantity, or injured in quality or purity, and who does not immediately repair the injury done by him, on being required by the Minister, so as to restore such stream or supply of water to the state in which it was before such unlawful act, shall be guilty of an offence.

Penalty: One thousand dollars.

(2) Any such penalty shall be in addition to the sum which such person may be lawfully adjudged to pay to the Minister for any damage which he may sustain by reason of his supply of water being diminished.

(3) The imposition of any such penalty shall not bar the right of the Minister to bring any action or any other remedy at law in respect of the damage so committed.

Penalty for destroying works

64. Any person who unlawfully and maliciously destroys or damages or attempts to destroy or damage, any reservoir, dam, tank, tunnel, watercourse, sluice, main-pipe, aqueduct, bridge, roadway, or engine, or other part whatever of the works of the Minister, shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding ten years.

Penalty for trespassing

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

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**PART 5
RATES**

DIVISION 1—RATES ON RESIDENTIAL LAND

Interpretation

65A. (1) In this Division, unless the contrary intention appears—

* * * * *

"**ratable land**" does not include land in a country lands water district;

"**residential building**" means a building that, in the opinion of the Minister, is used primarily for residential purposes but does not include—

- (a) a hotel, motel, boarding house or hostel; or
- (b) a building comprising two or more flats;

"**residential land**" means ratable land—

- (a) on which a residential building is situated; or
- (b) that is vacant land in relation to which the Minister has made a determination under subsection (3),

but does not include land—

- (c) on which a hotel, motel, boarding house, hostel or two or more flats are also situated; or
- (d) that, in the opinion of the Minister, is used primarily for non-residential purposes;

"**water rate**" means the water rate referred to in section 65B.

(2) For the purpose of determining the amount of the water rate payable in respect of land for a financial year the quantity of water supplied to the land in that financial year will be taken to be the quantity of water supplied to the land in the consumption year that ends in that financial year.

(3) The Minister may, on the Minister's own initiative or on application in writing and on the basis of such evidence as the Minister may require, determine that vacant land is residential land if satisfied—

- (a) that the land is situated in a predominantly residential locality and—
 - (i) is 0.1 ha or less in area; or
 - (ii) is similar in area to other allotments of residential land in the locality; or
- (b) that—
 - (i) a person is in the process of constructing, or planning the construction of, a residential building on the land; and
 - (ii) the land will be used primarily for residential purposes; and

- (iii) the land will not, before being used for residential purposes, be subject to division under Part 19AB of the *Real Property Act 1886*.

Rates on residential land

65B. (1) Rates on residential land are made up of—

- (a) a supply charge which is payable for the right to a supply of water to the land by the Minister; and
- (b) a water rate based on the volume of water supplied to the land.

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(3) The supply charge is payable in respect of land notwithstanding that the land is not connected to the waterworks or that the Minister has lessened, discontinued or cut off the supply of water to the land under this Act.

Declaration of rates, etc., by Minister

65C. (1) The Minister may, by notice in the *Gazette*, fix—

- (a) the supply charge;
- (b) the water rate in respect of water supplied to land.

(2) A notice under subsection (1)—

- (a) may fix different water rates in relation to different classes of residential land; and
- (b) may, in relation to all residential land or to a particular class of residential land, fix a series of water rates that increase as the volume of water supplied to the land in a financial year increases; and
- (c) will have effect in relation to a financial year specified in the notice.

Water allocation

65D. (1) The Minister may, by notice in the *Gazette*, fix a quantity of water (the water allocation) in relation to residential land.

(2) A notice under subsection (1)—

- (a) may fix different water allocations in respect of different classes of residential land; and
- (b) will have effect in relation to a financial year specified in the notice.

(3) When determining the amount of the water rate payable in respect of residential land the water allocation (if any) in respect of that land will be deducted from the quantity of water supplied to the land.

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DIVISION 2—RATES ON NON-RESIDENTIAL LAND**Interpretation**

65E. In this Division, unless the contrary intention appears—

"**non-residential land**" means ratable land that is not residential land as defined in Division 1.

Rates on non-residential land

66. (1) The rates payable in respect of non-residential land for any financial year shall be—

- (a) the rates applicable to the land calculated on the basis of the number of kilolitres of water supplied by the Minister to, or in relation to, the land during the consumption year ending in that financial year; or
- (b) the base rates applicable to that land,

whichever are the greater.

(2) The base rates applicable to any land (except land situated in a country lands water district) shall be—

- (a) the rates applicable to the land calculated on the basis of the capital value of the land or the minimum rates (if any) applicable to the land, whichever are the greater; or
- (b) where the Minister determines in relation to certain land that rates shall not be calculated on the basis of the capital value of that land, but fixes minimum rates in respect of that land, the minimum rates so fixed.

(3) The base rates applicable to any land situated in a country lands water district shall be—

- (a) the rates applicable to the land calculated on the basis of the area of the land, or the minimum rates (if any) applicable to the land, whichever are the greater; or
- (b) where the Minister determines in relation to certain land that rates shall not be calculated on the basis of the area of the land, but fixes minimum rates in respect of the land, the minimum rates so fixed.

(4) The Minister may, in respect of any financial year, by notice published in the *Gazette* fix—

- (a) a rate at which the rates payable on any non-residential land referred to in the notice shall be calculated, taking as the basis of calculation the number of kilolitres of water supplied to, or in relation to, the land during the consumption year ending in that financial year; or
- (b) a rate at which the rates payable on any non-residential land referred to in the notice are to be calculated, taking as the basis of calculation the capital value of the land; or
- (c) a rate per hectare at which the rates payable upon any non-residential land referred to in the notice are to be calculated, taking as the basis of calculation the area of the land; or
- (d) an amount that shall be the minimum rates payable in respect of any non-residential land referred to in the notice.

(5) The rates fixed by the Minister under subsection (4) of this section may be differential and may vary—

- (a) according to whether the land is or is not situated in a water district; or
- (b) according to the water district or portion thereof in which the land is situated; or
- (c) according to whether water is, or is not, laid on the land; or
- (d) according to whether the land is or is not supplied with water from a *Gazetted* main pipe; or
- (e) according to whether a constant supply of water is or is not available to the land; or
- (f) according to the distance of the land from the main pipe from which it is supplied; or
- (g) according to the distance of the land from a boundary of a street or road in or adjacent to which the main pipe from which it is supplied is laid; or
- (h) according to whether the land is vacant land or not; or
- (i) according to any other factor.

(6) The Minister may fix a series of rates under subsection (4)(a) that increase as the volume of water supplied to the land in a financial year increases.

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DIVISION 3—GENERAL

Capital value of land

66A. (1) For the purposes of this Part the capital value of land is the capital value of the land in force under the *Valuation of Land Act 1971* at the commencement of the financial year to which the water rates relate but is subject to correction or amendment upon objection, review or appeal under that Act.

(2) If, at the commencement of the financial year to which the water rates relate, there is no capital value of the land in force under the *Valuation of Land Act 1971* the capital value of the land will be the capital value subsequently determined under that Act.

Right to recover rates not to be suspended

67. The Minister's right to recover water rates is not suspended by an objection, review or appeal in relation to a valuation under the *Valuation of Land Act 1971-1972*, and the Minister may recover water rates on the assumption that the valuation is correct, but if any alteration to a valuation affecting the amount of water 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.

Time for publication of notices

68. (1) Notices under sections 65C(1) and 65D(1) must be published in the *Gazette* on or before 7 December preceding the financial year in relation to which they have effect.

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(2) A notice under section 66(4) must be published in the *Gazette* on or before 31 July in the financial year in respect of which it has effect.

Reduction of rates

69. Where water rates are not payable in respect of any land at the commencement of a financial year, but become payable in respect thereof before the expiration of that financial year, the Minister may reduce the amount of the water rates payable for that financial year in respect of the land by so much as he deems just.

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Power to reduce water rates

84. By notice published in the *Government Gazette* the Minister may, from time to time, throughout the whole or any part of any water district—

- (a) reduce the water rates on every or any description of land; and
- (b) reduce the price of water supplied by him under agreement.

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Right to Minister to treat separate holdings as a single parcel of ratable land and vice versa

86. (1) The Minister may, in his discretion, levy water rates upon any two or more parcels of land that are subject to the same ownership or occupation as if they constituted a single parcel of ratable land.

(2) The Minister may, in his discretion, levy water rates separately in respect of any parcel of land, or part thereof, notwithstanding that it is held conjointly with other land under the same ownership or occupation.

(3) Where the aggregate volume of water supplied to or in relation to two or more parcels of land is measured or assessed, but there are no separate measurements or assessments in relation to the individual parcels, the Minister may, for the purpose of determining water rates, or charges due under an agreement, in respect of the separate parcels of land, apportion the aggregate volume amongst the separate parcels in such manner as he considers just, and where such an apportionment has been made it shall be presumed that water has been supplied to or in relation to the separate parcels of land in accordance with that apportionment.

Recovery of money by Minister

87. (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 an agreement to defer payment of an amount due under this Act, or under a notice made or published under this Act (which notice may also contain particulars of an amount payable to the Minister under the *Sewerage Act 1929-1972*), shall be given to such person as soon as conveniently may be after the amount becomes payable.

(2) Any such 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 with respect to any meter 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.

(3) In any proceedings for the recovery of any such amount as aforesaid, the onus of proving that notice was not given as provided by this section shall be on the defendant.

(4) 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 the meter or any fitting upon or in which, such amount is payable, until the amount, together with all the expenses incurred by the Minister in cutting off such supply and the estimated cost of restoring such supply, have been paid.

(5) 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.

Exemption from rates

88. (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) for the purposes of a State school,

shall be exempt from water rates.

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(2) 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 water rates under that subsection and the water rates that have not been paid (if any) by virtue of that exemption shall, subject to subsection (2a), become payable.

(2a) Rates payable under subsection (2) shall be reduced by the amount of the charges (if any) paid under subsection (4) in respect of the same period.

(3) The Minister may in his discretion remit all or portion of the rates that would by virtue of the operation of subsection (2) of this section be payable.

(4) Notwithstanding that land is exempt from water 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) the supply of water to the land; or
- (b) other services related to the supply of water,

as the Minister thinks fit.

(5) The charges imposed on the owner or occupier of land under subsection (4) 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 water rates.

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

- (a) a charge determined according to the volume of water supplied; 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.

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

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

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Gazetted mains

90. (1) Whenever a main pipe or part of a main pipe has been laid down by the Minister he may cause to be published in the *Gazette* a notice that he is prepared to provide a constant supply of water to adjacent land.

(2) A notice of a kind contemplated by this section published under this Act, as in force before the commencement of the *Waterworks 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 that notice was published.

(3) Where a notice has been published under this section before the declaration of the area, in which the main pipe has been laid, to be a water district that notice shall, for the purposes of section 94 of this Act, be deemed to have been published immediately after the day on which the proclamation declaring the area to be a water district comes into force.

(4) 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.

Provisions where several houses supplied by one pipe

91. Where several houses or parts of houses in the separate occupation of several persons are supplied by one common pipe, or where water is supplied to courts, alleys, and rights-of-way by standpipes, the several owners or occupiers of such houses or parts of houses, or of the several houses or parts of houses in every such court, alley, or right-of-way, shall be liable to the payment of the same water rates as they would have been liable to if each of the several houses or parts of houses had been supplied with water from the works of the Minister by a separate pipe.

Power of collector to give notice to occupiers to pay rents when water rates payable by owner are in arrear

92. (1) In respect of water rates or any other moneys for the payment of which the owner of any land is liable, the collector may give notice in writing to the occupier of the land, in respect of which the arrears shall be due, to pay to him all rents thenceforward until satisfaction shall be made thereof of the arrears.

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

(3) Until full satisfaction of the said arrears by the receipt of rent as aforesaid, together with an amount equal to five per centum of the rent paid as aforesaid (which said amount shall be payable to the Minister as costs for the collection of such rent), the Minister is hereby empowered to 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 such rent, be a complete discharge from such rent to the amount paid, and may be pleaded in bar to every action in which such rent is, or damages in lieu thereof are, sued for.

Recovery of amounts due to Minister

93. (1) Any amount (other than a pecuniary penalty) due to the Minister under this Act or 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 meter or 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 payable by and be recoverable from the consumer, or from the owner or occupier for the time being of the land with respect to which, or to any meter or fitting upon or in which, the amount is payable.

Time for payment of water rates, etc.

94. (1) Subject to this section water rates for any financial year in respect of any land shall be payable in the following manner:—

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- (a) the supply charge or the base rates are payable by equal instalments on the first day of each quarter of the financial year but if the base rates have not been fixed on or before the first day of the financial year the instalment of base rates in respect of the first quarter will become payable on the day on which the base rates are fixed under this Act; and
 - (b) any further amount of rates payable in respect of the land shall be paid within the time specified in a notice requiring payment thereof served upon the owner or occupier of the land.
- (2) Subject to this section, where water is supplied by the Minister by agreement—
- (a) any minimum charges payable under the agreement for water supplied during a financial year shall be payable by equal instalments on the first day of each quarter of the financial year; and
 - (b) any further amount payable in pursuance of the agreement shall be paid within the time specified in a notice requiring payment thereof served upon the owner or occupier of the land.
- (3) The Governor may by proclamation vary the time for payment of water rates or minimum charges under this section.
- (4) Notwithstanding the foregoing provisions of this section, the owner or occupier of land shall be entitled to pay the supply charge or base rates, or minimum charges under an agreement, for which he is liable in full, and in advance, upon receipt of a notice requiring payment of any quarterly amount that is due and payable.
- (5) Where land that was not subject to water rates at the commencement of a financial year becomes ratable land during the course of that financial year, then the first instalment of rates in respect of that land shall be due and payable—
- (a) in the case of adjacent land, on the first payment day after the day on which a notice was published under section 90 of this Act relating to the land; and
 - (b) in the case of other land, on the first payment day after the day on which—
 - (i) water was supplied directly or indirectly to the land; or
 - (ii) a supply of water was, at the request of an owner or occupier of the land, provided to a point determined by the Minister.

Recovery of rates

95. (1) If any water rates or other charges due to the Minister are unpaid, the Minister may—

- (a) recover the said rates or charges 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 or charges together with fees and expenses not exceeding the fees and expenses prescribed by this Act, 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 or charges are payable.

(2) The Minister 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 or charges 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 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 or charges 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 or charges and the same may be recovered from him: Provided that the liability of such agent shall be limited to moneys held by him or coming into his possession on behalf of the owner.

(4) 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*.

Power of tenant paying water rates or other charges due by his landlord to recover same

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

(2) If the water rates or other charges so paid or satisfied exceed the rent due, the lessee or occupier may either set off the amount of the excess against accruing rent or recover the same by action as for money paid.

(3) If any notice is given by the lessee or occupier to the owner or lessor of the water rates or other charges having been demanded, and there is no rent due from him in respect of the property rated, and the lessee or occupier is compelled to pay the water rates or other charges, he may sue the owner or lessor for the amount as for money paid, and shall be entitled to recover the same with full costs as between solicitor and client.

(4) If the goods of the lessee or occupier are subjected to distress and sale for the satisfaction of the water rates or other charges and no rent at the time is due, he may sue the owner or lessor for double the amount of the value of his goods so distrained and sold, and shall be entitled to recover the same with costs as aforesaid.

Power of tenant to recover portion of water rate or other charges in certain cases

97. A tenant who pays water rates or other charges for a period prior to or extending beyond his term shall be entitled to recover from his landlord the amount so paid.

Power to sell land

98. (1) If any water rates or other charges in respect of any land are in arrear for the space of two years, the Minister may cause to be published three times in the *Government Gazette* a notice, in the prescribed form.

(2) If, after one year from the last publication of the notice, all or any part of the water rates or other charges due at the time of the first publication thereof are still unpaid, the Minister may—

- (a) let such land from year to year, and may receive the rents and apply the same towards the payment of the water rates or other charges and the costs and expenses, and hold any surplus for the owners of the land:

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- (b) by petition to the Supreme Court or any judge thereof, apply for a sale of the lands described in such notice, or of so much thereof 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 such notice, and that all acts required by this section to be done by the Minister have been done, shall 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 and interest at five per centum per annum, from the time of the first publication of the notice on such arrears as were then due, 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 be paid into court; and
- (c) that payment of the said water rates, charges, interests, costs, and expenses be made in preference to any mortgage or other security; and
- (d) that the conveyance or deed of assurance, as the case may require, shall be executed by the Master, or other officer of the court, to the purchaser, in such form as shall be approved by the court or a judge.
- (4) The said conveyance or deed of assurance shall vest the legal estate (according to its nature) in the sold lands in the purchaser, free from all encumbrances.
- (5) The balance arising from the proceeds of such sale shall remain and be subject to any future or other orders of the court, for behoof of the party or parties interested therein.
- (6) 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.

(7) In this section—

"charges" includes any amount payable to the Minister under an agreement to defer payment of an amount due under this Act.

Power of lessee to recover half cost of service pipes, etc., when lease has less than five years to run

99. Any lessee, and the executors, administrators, and assigns of any lessee of land, who holds or who hold the land under a lease for a term whereof a period less than five years remain unexpired, when the cost hereinafter mentioned is incurred, shall—

- (a) be entitled to receive from his lessor, his executors, administrators, or assigns, a moiety of the cost which such lessee or his under-lessee, or the executors, administrators, or assigns of such lessee or under-lessee, may have paid or may be liable to pay to the Minister for providing, laying down, and fixing in readiness for use, such service pipes or other prescribed fittings as are necessary for conveying the water from the main pipe to such land; and
- (b) may, in addition to any other remedy for recovering such costs, deduct such moiety from any rent due or to accrue due under the lease.

Payment of net proceeds of rates to Treasurer

100. All moneys received by the Minister under the authority of this Act shall, after deducting therefrom the necessary cost and charges of and attending the collection of the same, and also of the maintenance of the works and of keeping up the supply of water, and all such moneys which under the authority of this Act he has paid, be paid at least once in each year by the Minister to the Treasurer, who shall thereout pay off such amount of capital and interest in respect of the moneys raised for the purposes of the works as may from time to time fall due.

Publication of annual accounts

101. (1) Every year the Minister shall cause to be prepared for the year preceding, under the distinct heads of receipts and expenditure, an account in abstract of all moneys advanced to him, and of all water rates and other moneys levied or received by him for the purposes of the waterworks in every water district, and also of all moneys expended by him for such purposes and of the manner in which such 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.

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**PART 7
POWER TO LEASE CERTAIN WATERWORKS**

Power to lease

106. (1) The Minister may, with the consent of the Governor, lease to any municipal corporation or district council or to any persons the whole or any part of any waterworks, 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 waterworks so leased.

(3) The power to lease conferred by this section shall not apply to any waterworks within the Adelaide water district.

Power to accept surrenders

107. 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

108. (1) Every such lessee shall, during the term of the lease, have and may exercise, with respect to the 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 leases had not been made.

Rating powers of lessees

109. Whenever any waterworks 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 5 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.

**PART 8
MISCELLANEOUS**

Certain work may be carried out by owner

109A. (1) Where a person who has applied to the Minister for the extension of a main pipe or the connection of land to a main pipe (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 main pipe to land that the applicant has divided, or proposes to divide, or for the connection of such land to a main pipe; 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 waterworks.

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

but the applicant is not liable, subject to section 109B for any other charge or fee under this Act in respect of the work.

Capital contribution where capacity of waterworks increased

109B. (1) Where the Minister has decided to increase the capacity of the waterworks to cater for future demand for the supply of water 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

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- (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 waterworks.

(2) The amount of the contribution is an amount equivalent to that part of the cost of increasing the capacity of the waterworks that should, in the Minister's opinion, be attributed to the additional demand for the supply of water 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 waterworks 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.

Appropriation of moneys recovered under this Act

110. All fines, penalties, and other moneys levied or recovered by the Minister under this Act, or under any agreement made under it, shall, so far as not otherwise specially appropriated, be paid to the Treasurer, to be by him carried to the credit of the Minister for the purposes of this Act.

Summary procedure

111. (1) All proceedings for offences against this Act (not being felonies) shall be disposed of summarily.

(2) Proceedings for an offence against this Act may be commenced within two years after the date of the alleged commission of the offence.

Register of meters to be *prima facie* evidence

112. The register of every meter provided by the Minister, or a copy thereof, certified to be true by the Minister or any officer appointed by him under this Act, shall be *prima facie* evidence of the quantity of water consumed.

Certificate of Minister

112A. (1) In any proceedings for the recovery of water 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 Minister was prepared to supply water by means of a direct service to land specified in the certificate, shall be conclusive evidence of the facts 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 subsection (1) of this section shall in the absence of proof to the contrary be deemed to be such a certificate.

Persons liable to penalties

113. Every penalty imposed by this Act may be proceeded for and enforced either against the person actually in breach of this Act or the person in whose employment he is, or on whose behalf he is acting.

Distress not unlawful for want of form

114. Where any distress is made for any sum of money to be levied under this Act, the distress itself shall not be unlawful, nor the persons making the same be deemed trespassers, on account of any defect or want of form in the complaint, summons, conviction, warrant of distress, or other proceedings relating thereto; nor shall the persons distraining be deemed trespassers on account of any irregularity that may be afterwards done by the persons distraining, but the persons aggrieved by such irregularities may recover satisfaction for the special damage in any court of competent jurisdiction.

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Tender of amends

116. 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 makes tender to the person injured, his solicitor or agent, of such amends as, in the opinion of the court at the trial were sufficient, such last-mentioned person shall not recover in any such action.

Power to seize and detain offenders

117. Any officer or servant of the Minister, and all persons called by him to his assistance, may seize and detain any person who commits any offence against the provisions of this Act, and whose name and residence is unknown to such officer or servant, and may convey him with all convenient dispatch before a court of summary jurisdiction without any warrant or other authority than this Act. The court of summary jurisdiction shall proceed with all convenient dispatch to the hearing and determining of the complaint against such offender.

Gazette to be evidence in certain cases

118. The production of the *Government Gazette* containing any notice purporting to be published by the Minister in pursuance of this Act, shall in every court of justice be deemed and taken to be *prima facie* evidence of the publication, and of all such facts and circumstances as were or shall be necessary to authorise the publication of any such notice.

Evidence

119. In all proceedings for the recovery of rates or other charges, the allegation by the Minister that a person is the owner or occupier of any particular quantity of land liable to be rated, and of the amount of rates or other charges due in respect thereof, shall be *prima facie* evidence of the fact.

Validation of certain surcharges

119A. The expressions "water rates" and "rates" when used in section 3 of the *Waterworks Act 1927*, section 3 of the *Water and Sewerage Rates (Surcharge) Act 1928*, section 3 of the *Water and Sewerage Rates (Surcharge) Act 1929*, section 3 of the *Water and Sewerage Rates (Surcharge) Act 1930*, section 3 of the *Water and Sewerage Rates (Surcharge) Act 1931*, section 3 of the *Water and Sewerage Rates (Surcharge) Act 1932*, section 3 of the *Water and Sewerage Rates (Surcharge) Act 1933* and section 3 of the *Water and Sewerage Rates (Surcharge) Act 1934*, shall be deemed to include and refer to and always to have included and referred to construction rates payable under *The Waterworks Act Amendment Act 1888* (as amended by the *Waterworks Act Amendment Act 1925*) or under Part 6 of this Act.

Existence of communication pipes and meter evidence of contract

120. The existence of a communication pipe or pipes between a main pipe of the Minister and any land and the existence of a meter on or near such land shall, in any legal proceedings, be conclusive evidence that the consumer, and 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.

Tod River and Coonalpyn Downs water district

121. Land within the Tod River water district constituted under the *Tod River Waterworks Act 1916*, or the Coonalpyn Downs water district, shall be deemed to be adjacent land for the purposes of this Act notwithstanding that the land is separated from a gazetted main pipe by—

- (a) any land constituting, or forming part of, a road, or roads; or
- (b) any land traversed by, or appurtenant to, a railway line; or
- (c) any combination of contiguous land within the categories of paragraphs (a) and (b) of this section.

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SCHEDULES

SCHEDULE 1

Acts Repealed

Reference to Act	Title
No. 269 of 1882	<i>The Waterworks Act 1882</i>
No. 446 of 1888	<i>The Waterworks Act Amendment Act 1888</i>
No. 1473 of 1921	<i>Waterworks Act Amendment Act 1921</i>
No. 1717 of 1925	<i>Waterworks Act Amendment Act 1925</i>
No. 1843 of 1927	<i>Waterworks Act 1927</i>
No. 1895 of 1929	<i>Waterworks Act Amendment Act 1929</i>
No. 2077 of 1932	<i>Waterworks Act Amendment Act 1932</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 65C(1), 65D(1) or 66(4) will be taken to have been validly published by the Minister under the section concerned 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. The notice published in the *Gazette* on 11 July 1991 at page 264 in purported exercise of the power under sections 65C(1) and 65D(1) will be taken to have fixed on 1 July 1991 in respect of all classes of residential land for the 1991/1992 financial year—

- (a) the threshold value at \$117 000; and
- (b) the access rate for land of or below the threshold value at \$116; and
- (c) the rate in the dollar for the purpose of determining the access rate for land exceeding the threshold value at \$0.0008; and
- (d) the water rate in respect of water supplied to land at \$0.85 per kilolitre; and
- (e) the water allocation at 136 kilolitres.

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 87 and to have been given to that person as soon as conveniently possible after the amount became payable.

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APPENDIX**LEGISLATIVE HISTORY****Transitional Provisions**

(Transitional provision from the Waterworks (Residential Rating) Amendment Act 1992, s. 7)

7. Water rates continue to be payable under the principal Act in respect of residential land for any period prior to the financial year commencing on 1 July 1993 as if this Act had not been enacted.

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 11 of The Public General Acts of South Australia 1837-1975 at page 412.
- 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 18, 1984, s. 3(c) definition of "fittings" amended by 18, 1984, s. 3(a) definition of "Minister" repealed by 18, 1984, s. 3(b)
Section 4(2):	inserted by 18, 1984, s. 3(c)
Section 10(1):	amended by 18, 1984, s. 4(a)-(e); 39, 1987, s. 3(a)
Section 10(1)IVA:	repealed by 18, 1984, s. 4(b)
Section 10(1)XVII:	repealed by 18, 1984, s. 4(d)
Section 10(2):	substituted by 18, 1984, s. 4(f)
Section 10(2aa):	inserted by 39, 1987, s. 3(b)
Section 10(2a) - (2c):	inserted by 18, 1984, s. 4(f)
Section 18:	amended by 18, 1978, s. 2; 18, 1984, s. 5
Section 35(1):	amended by 18, 1984, s. 6(a)
Section 35(1a) - (1c):	inserted by 18, 1984, s. 6(b)
Section 38:	amended by 18, 1978, s. 3; 18, 1984, s. 7
Section 39(1):	amended by 18, 1984, s. 8(a)
Section 39(2):	amended by 18, 1984, s. 8(b), (c)
Section 42:	amended by 18, 1984, s. 9
Section 43:	amended by 18, 1978, s. 4; substituted by 18, 1984, s. 10
Section 45(2):	amended by 18, 1978, s. 5; 18, 1984, s. 11
Section 46(1):	amended by 18, 1984, s. 12(a)
Section 46(2):	amended by 18, 1978, s. 6; 18, 1984, s. 12(b)
Section 47(1):	amended by 18, 1984, s. 13(a), (b)
Section 47(2):	amended by 18, 1984, s. 13(c), (d)
Section 49:	amended by 18, 1978, s. 7; 18, 1984, s. 14
Section 50:	amended by 18, 1978, s. 8; 18, 1984, s. 15
Section 52:	amended by 18, 1978, s. 9; 18, 1984, s. 16
Section 53:	amended by 18, 1978, s. 10; 18, 1984, s. 17
Section 54:	amended by 18, 1984, s. 18
Section 55:	amended by 18, 1978, s. 11; 18, 1984, s. 19
Section 56:	amended by 18, 1984, s. 20
Section 57:	amended by 18, 1984, s. 21
Section 58(3):	amended by 18, 1984, s. 22
Section 59:	amended by 18, 1978, s. 12; 18, 1984, s. 23
Section 60:	amended by 18, 1978, s. 13; 18, 1984, s. 24
Section 62:	amended by 18, 1978, s. 14; 18, 1984, s. 25
Section 63(1):	amended by 18, 1978, s. 15; 18, 1984, s. 26
Section 65:	amended by 18, 1978, s. 16; 18, 1984, s. 27

Division 1 of Part 5 comprising ss. 65A - 65D and heading
inserted by 10, 1991, s. 3

Section 65A(1):	definition of "threshold value" repealed by 68, 1992, s. 3(a) definition of "residential land" substituted by 68, 1992, s. 3(b)
Section 65A(3):	inserted by 68, 1992, s. 3(c)
Section 65B(1):	amended by 68, 1992, s. 4(a)
Section 65B(2):	repealed by 68, 1992, s. 4(b)
Section 65B(3):	amended by 68, 1992, s. 4(c)
Section 65C(1):	substituted by 68, 1992, s. 5
Section 65D(2):	substituted by 51, 1991, s. 3(a)
Section 65D(4):	repealed by 51, 1991, s. 3(b)
Heading preceding section 65E:	inserted by 10, 1991, s. 4
Section 65E:	inserted by 10, 1991, s. 5
Section 66(1):	amended by 10, 1991, s. 6(a)
Section 66(2):	amended by 29, 1981, s. 19(a)
Section 66(3):	amended by 29, 1981, s. 19(b)
Section 66(4):	amended by 29, 1981, s. 19(c), (d); 10, 1991, s. 6(b)
Section 66(5):	amended by 10, 1991, s. 6(c)
Section 66(6):	amended by 29, 1981, s. 19(e); substituted by 10, 1991, s. 6(d)
Section 66(7):	repealed by 10, 1991, s. 6(d)
Section 66(8):	amended by 88, 1984, s. 8(4) (Sched. Pt. 4); repealed by 10, 1991, s. 6(d)
Heading preceding section 66A:	inserted by 10, 1991, s. 7
Section 66A:	inserted by 10, 1991, s. 8
Section 67:	amended by 88, 1984, s. 8(4) (Sched. Pt. 4); 10, 1991, s. 9
Section 68:	inserted by 51, 1991, s. 3(c)
Section 84A:	amended by 55, 1977, s. 5; repealed by 78, 1986, Sched. 5
Section 85:	repealed by 39, 1987, s. 4
Section 87(1):	amended by 18, 1987, s. 28; 39, 1987, s. 5
Section 88(1) and (2):	substituted by 18, 1984, s. 29
Section 88(2a):	inserted by 18, 1984, s. 29
Section 88(4)-(8):	inserted by 10, 1981, s. 3
Section 93(1):	amended by 18, 1984, s. 30; 39, 1987, s. 6
Section 94(1):	amended by 10, 1991, s. 10(a); 51, 1991, s. 3(d); 68, 1992, s. 6(a)
Section 94(4):	amended by 10, 1991, s. 10(b); 68, 1992, s. 6(b)
Section 95(1):	amended by 18, 1984, s. 31
Section 98(1):	amended by 18, 1984, s. 32
Section 98(3):	amended by 39, 1987, s. 7(a)
Section 98(7):	inserted by 39, 1987, s. 7(b)
Section 109A:	inserted by 39, 1987, s. 8
Section 109A(6):	amended by 33, 1994, s. 4
Section 109B:	inserted by 33, 1994, s. 5
Section 113:	amended by 18, 1984, s. 33
Schedule 2:	inserted by 51, 1991, s. 3(e)