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THE SCHEDULE

SEWERAGE ACT, 1929-1975

being

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

as amended by

Statute Law Revision Act, 1936, No. 2293 of 1936 [Assented to 8th October, 1936];
 Sewerage Act Amendment Act, 1946, No. 48 of 1946 [Assented to 19th December, 1946];
 Sewerage Act Amendment Act, 1953, No. 27 of 1953 [Assented to 3rd December, 1953];
 Sewerage Act Amendment Act, 1955, No. 24 of 1955 [Assented to 24th November, 1955];
 Sewerage Act Amendment Act, 1960, No. 65 of 1960 [Assented to 24th November, 1960];
 Sewerage Act Amendment Act, 1962, No. 51 of 1962 [Assented to 15th November, 1962];
 Statutes Amendment (Waterworks and Sewerage) Act, 1966, No. 40 of 1966 [Assented to 25th August, 1966];
 Sewerage Act Amendment Act, 1967, No. 47 of 1967 [Assented to 19th October, 1967];
 Sewerage Act Amendment Act, 1969, No. 61 of 1969 [Assented to 4th December, 1969]¹;
 Sewerage Act Amendment Act, 1970, No. 53 of 1970 [Assented to 10th December, 1970];
 Statutes Amendment (Valuation of Land) Act, 1972, No. 79 of 1972 [Assented to 5th October, 1972]²;
 Rates and Taxes Remission Act, 1974, No. 16 of 1974 [Assented to 4th April, 1974]³;
 Sewerage Act Amendment Act, 1974, No. 40 of 1974 [Assented to 11th April, 1974]⁴;
 Statute Law Revision Act, 1975, No. 24 of 1975 [Assented to 27th March, 1975];

and

Statutes Amendment (Rates and Taxes Remission) Act, 1975, No. 98 of 1975 [Assented to 20th November, 1975]⁵.

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

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I

PART I

PRELIMINARY

1. This Act may be cited as the "Sewerage Act, 1929-1975".

Short title.
 Citation
 amended by 98,
 1975, s. 6 (2).

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

PART I—Preliminary.

PART II—Finance.

PART III—Incorporation and Powers of the Minister.

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

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

Arrangement of
 Act.
 S. 2 amended by
 48, 1946, s. 10;
 27, 1953, s. 4;
 79, 1972, s. 68.

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

² Deemed to have come into operation 1st June, 1972: see s. 2 of Act No. 79 of 1972.

³ Deemed to have come into operation 1st July, 1973: see s. 2 of Act No. 16 of 1974.

⁴ Deemed to have come into operation 1st July, 1973: see s. 2 of Act No. 40 of 1974.

⁵ Deemed to have come into operation 1st July, 1975: see s. 2 of Act No. 98 of 1975.

PART VI—Rates.

PART VIA—Power to Lease Drainage Works.

PART VII—Legal Proceedings.

Acts
consolidated.

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

Interpretation.
106, 1878, s. 2.
1745, 1926, s. 3.

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

Def. of “Com-
missioner”
struck out by
48, 1946,
s. 3 (a).

* * * * *

Def. inserted by
48, 1946,
s. 3 (b).

“country drainage area” means any drainage area other than the Adelaide drainage area:

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

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

“fittings” includes cocks, valves, cisterns, water pipes, traps, syphons, manholes, lampholes, ventilators, entrances, and other apparatus connected with, and requisite to secure the safe and proper working of, any drain or sewer:

Def. substituted
by 79, 1972,
s. 69 (a).

“land” includes premises:

Def. inserted by
48, 1946,
s. 3 (c).

“Minister” means the Minister of Works:

Def. amended
by 79, 1972,
s. 69 (b).

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

Def. inserted by
53, 1970, s. 2;
amended by
79, 1972,
s. 69 (c).

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

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

“sewer” means sewer or drain of every description, except a drain as hereinbefore defined:

“street” includes any square, court, alley, highway, bridge, lane, road, thoroughfare, passage, or place:

“sewerage rates” means rates made and levied under the provisions of this Act or any Act hereby repealed:

Def. of “the
Land and
Valuation
Court” inserted
by 61, 1969,
s. 3; struck out
by 79, 1972,
s. 69 (d).

* * * * *

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

Def. amended by 48, 1946, s. 10.

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

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

Acquisition of land.
S. 5 amended by 48, 1946, s. 10; 51, 1962, s. 3 (1)¹; substituted by 40, 1974, s. 3.

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

Validation of certain sewerage rates, etc.
S. 5a enacted by 53, 1970, s. 3.

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

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

Subsec. (3) inserted by 40, 1974, s. 4.

PART II

PART II

FINANCE

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

Interest on sewers loans.
1282, 1917, s. 4.

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

Application of sewerage rates and payment of maintenance expenses.
1282, 1917, s. 5.

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

¹ S. 3 (2) of Act No. 51 of 1962 provided as follows:—

(2) The amendment effected by subsection (1) of this section shall be deemed to have come into operation at the time of the passing of the Sewerage Act Amendment Act, 1946, and any notice to treat given, or purporting to have been given, under the principal Act, since the time of the said passing shall be deemed to be and to have been valid and effectual for all purposes whatsoever as if subsection (4) of section 5 of the principal Act as enacted by subsection (1) of this section had been in force when any such notice to treat was given: Provided that nothing in this subsection contained shall validate or make effectual the notice to treat which was the subject of proceedings in the Supreme Court No. 1464 of 1960.

PART II

Payments to be made on account of Minister.

106, 1878, s. 20.
S. 8 amended by 48, 1946, s. 10.

Para. (a) amended by 48, 1946, s. 10.

Para. (b) amended by 48, 1946, s. 10.

Para. (c) amended by 48, 1946, s. 10.

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

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

Annual accounts to be published.
106, 1878, s. 14.
1556, 1923, s. 9.
Subsec. (1) amended by 48, 1946, s. 10.

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

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

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

PART III

PART III

Heading amended by 48, 1946, s. 10.

INCORPORATION AND POWERS OF THE MINISTER

S. 10 repealed by 48, 1946, s. 4.

* * * * *

S. 11 repealed by 48, 1946, s. 4.

* * * * *

Governor may appoint officers.
106, 1878, s. 17.

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

Governor may make regulations.
106, 1878, s. 18.
1366, 1919, s. 9.
1845, 1927, s. 4 (part).
Subsec. (1) amended by 48, 1946, s. 10;
51, 1962, s. 4;
53, 1970, s. 4;
79, 1972, s. 70;
40, 1974, s. 5 (a).

13. (1) The Governor may make all such regulations as appear to him expedient for any or all of the following purposes, namely:—

- I. For protecting the undertaking, and every part thereof, from trespass or injury:
- II. For regulating, in regard to drainage, the plans, inclination, and the materials of the pavement and roadway of public and private streets, and the plans and levels of sites for buildings, and the levels of the bottoms of cellars and the lowest parts of buildings, and the drainage of streets into sewers:
- III. For regulating the dimensions, form, and mode of construction, and the materials, and the keeping, cleaning, and repairing of the pipes, drains, and other means of communicating with sewers, and

Para. III amended by 48, 1946, s. 10.

the fittings and apparatus connected therewith for the emptying, cleansing, closing, and filling up of sinks, cesspools, and privies, and for such other works of cleansing and of removing and disposing of refuse as the Minister is authorized to perform:

- iv. For prohibiting the use of any form of or any mode of management of any baths, water-closets, soilpans, sinks, cesspits, wells, and other receptacles and fittings, the use of which may in his judgment tend to any fouling or contamination or to endanger the public health:

- v. For regulating the conduct of the officers, workmen, and servants appointed, employed, or hired under and for the purposes of this Act, and for the making, levying, and collecting of sewerage rates, and for providing for the due management and use in all respects of the property of the Minister and of the undertaking, and for its construction, completion, maintenance, and extension, and for carrying into effect the purposes of this Act generally:

Para. V
amended by
48, 1946, s. 10.

- vi. Prescribing a scale of annual fees to be paid to the Minister for the drainage of, and the removal of sewerage matter from, land that is exempt from rating under this Act:

Para. VI
amended by
48, 1946, s. 10;
79, 1972, s. 70.

- vii. For regulating or fixing charges or fees payable in respect of works or services provided by the Minister for, or in relation to the provision of, drainage:

Para. VII
substituted by
53, 1970, s. 4.

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

Para. VIII
inserted by
51, 1962, s. 4.

(2) The Governor may, by any such regulations, impose such reasonable penalties as he thinks fit, not exceeding twenty dollars¹, for breach of any such regulation; and, in case of a continuing offence a further penalty, not exceeding two dollars¹, for every day after notice of the offence has been given by the Minister to the offender.

Subsec. (2)
amended by
48, 1946, s. 10;
40, 1974,
s. 5 (b).

(3) Any regulation in force under this section immediately before the enactment of this subsection shall, subject to amendment or revocation, continue in force.

Subsec. (3)
amended by
48, 1946, s. 10;
substituted by
40, 1974,
s. 5 (c).

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

Undertaking to
vest in Minister.
106, 1878, s. 19.
S. 14 amended
by 48, 1946,
s. 10.

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

Street drains to
be under control
of Minister.
106, 1878, s. 58.
S. 15 amended
by 48, 1946,
s. 10.

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

Minister not to
be personally
liable.
106, 1878, s. 21.
S. 16 amended
by 48, 1946,
s. 10.

¹ Pursuant to s. 8 of the Acts Republishing Act, 1967, as amended, references to amounts of money expressed in decimal currency substituted for references to amounts of money expressed in the old currency.

PART III

Minister may
delegate his
powers.
106, 1878, s. 22.
Subsec. (1)
amended by
48, 1946, s. 10.

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

Subsec. (2)
amended by
48, 1946, s. 10.

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

Subsec. (3)
amended by
48, 1946, s. 10.

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

Power to lease
and sell surplus
land or
property.
Cf. 2101, 1932,
s. 26.
S. 17a enacted
by 27, 1953,
s. 2.

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

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

PART IV

PART IV

CONSTRUCTION, MAINTENANCE, AND EXTENSION OF THE UNDERTAKING

Drainage area.
106, 1878, s. 23.
662, 1896, s. 2.
1745, 1926, s. 4.
Subsec. (1)
amended by
40, 1974,
s. 6 (a).

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

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

Subsec. (3)
inserted by
40, 1974,
s. 6 (b).

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

Minister may
purchase or
lease land.
106, 1878, s. 25.
S. 19 amended
by 48, 1946,
s. 10; 79, 1972,
s. 71.

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

Para. (a)
amended by
79, 1972, s. 71.

(a) any land which he thinks necessary for the purposes of this Act or for the formation or protection of any works which he is authorized to execute under this Act; and

- (b) any sewage farms, offices, buildings, yards, stations or places for deposit of refuse, material, or things, or any land for the formation or erection of any such sewage farms, offices, buildings, yards, stations, or places for deposit as aforesaid.

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

Minister may construct sewers.
106, 1878, s. 26.
Subsec. (1) amended by 48, 1946, s. 10; 79, 1972, s. 72.

- (a) make and construct sewers, drains, and works with all necessary fittings, of such construction and in such manner as he thinks expedient, for the purpose of effectually draining the drainage area; and

- (b) carry any such sewers and drains through, across, or under any public or private street, and any cellar or vault which may be under the pavement of any public or private street, and into, through, or under any land whatsoever, making compensation for any damage done thereby, as herein provided; and

Para. (b) amended by 79, 1972, s. 72.

- (c) break up any street, and the soil, pitchings, and pavements thereof; and

- (d) excavate and sink trenches for the purpose of laying down, making, and constructing any such sewers and drains therein; and

- (e) cause any such sewers to discharge upon such land as may be acquired by the Minister for that purpose, or cause any such sewers to communicate with the sea as the Minister may think expedient; and

Para. (e) amended by 48, 1946, s. 10.

- (f) from time to time open, cleanse, and repair any such sewers, drains, and fittings, and alter the position or construction thereof; and

- (g) make any drains to any main sewer from any land within the drainage area for the purpose of cleansing and draining any such land by means of such drains and sewers; and

Para. (g) amended by 79, 1972, s. 72.

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

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

Subsec. (2) amended by 48, 1946, s. 10.

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

Minister may construct dams.
106, 1878, s. 27.
S. 21 amended by 48, 1946, s. 10.

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

Position of dams.
106, 1878, s. 28.
S. 22 amended by 48, 1946, s. 10.

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

Power to construct accommodation works.
106, 1878, s. 29.
Subsec. (1) amended by 48, 1946, s. 10.

Subsec. (2)
substituted by
40, 1974, s. 7.

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

Subsec. (3)
inserted by 40,
1974, s. 7.

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

Power to make
roads.
106, 1878, s. 30.
S. 24 amended
by 48, 1946,
s. 10.

24. The Minister may—

(a) make and maintain, upon or over any land which has been taken or used for the purposes of this Act and the undertaking, such roads or other like means of communication as he deems necessary or proper for effectually executing the said purposes and making all proper approaches to the undertaking, whether the approaches are permanent or needed only for a temporary purpose:

(b) repair, amend, and fence in the said roads or other means of communication:

(c) cause all or any of them to be used exclusively for those purposes, or, at his discretion, permit the public or any particular person to use all or any of them, upon such terms and subject to such conditions as he thinks proper to make or impose:

Para. (d)
amended by
48, 1946, s. 10.

(d) dedicate all or any such roads or other means of communication permanently to the use of the public; but the public or any particular person shall not acquire any right to use, or any privilege or easement in respect to all, or any of them, save as are expressly granted or dedicated by the Minister in conformity with this section.

Power to break
up streets.
106, 1878, s. 31.
Subsec. (1)
amended by
48, 1946, s. 10.

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

Subsec. (2)
amended by
48, 1946, s. 10;
substituted by
40, 1974, s. 8.

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

Subsec. (3)
inserted by
40, 1974, s. 8.

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

Notice to be
served before
breaking up
streets.
106, 1878, s. 32.
Subsec. (1)
amended by
48, 1946, s. 10.

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

Subsec. (2)
amended by
48, 1946, s. 10.

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

the beginning of the opening or breaking up, or after the necessity for the same has arisen.

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

Street not to be broken up except under superintendence.
106, 1878, s. 33.
S. 27 amended by 48, 1946, s. 10.

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

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

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

Streets broken up to be reinstated without delay.
106, 1878, s. 34.
S. 28 amended by 48, 1946, s. 10.

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

29. (1) If the Minister—

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

Compensation for delay in reinstating streets.
106, 1878, s. 35.
Subsec. (1) amended by 48, 1946, s. 10.

- (c) neglects to cause the place where the road or pavement has been broken up to be fenced, guarded, and lighted,

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

Subsec. (2)
amended by
48, 1946, s. 10;
substituted by
40, 1974, s. 9.

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

Subsec. (3)
inserted by
40, 1974, s. 9.

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

In certain cases
parties other
than the
Minister may
reinstate.

106, 1878, s. 36.
Subsec. (1)
amended by
48, 1946, s. 10.

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

- (a) keeps the same open or broken up longer than is reasonably necessary, or makes any unnecessary delay in filling in the ground or in reinstating and making good the road or pavement of any such street, or in carrying away the rubbish occasioned thereby; or

- (b) neglects to cause the place where the road or pavement has been opened or broken up to be fenced, guarded, and lighted while it is so opened or broken up,

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

Subsec. (2)
amended by
48, 1946, s. 10;
substituted by
40, 1974, s. 10.

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

Subsec. (3)
inserted by
40, 1974, s. 10.

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

Water and gas
pipes to be
altered when
necessary.

106, 1878, s. 38.
Subsec. (1)
amended by
48, 1946, s. 10.

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

Subsec. (2)
amended by
48, 1946, s. 10.

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

Subsec. (3)
amended by
48, 1946, s. 10.

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

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

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

Powers of entry, survey, etc.
S. 31a enacted by 48, 1946, s. 5.

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

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

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

Subsec. (3) amended by 40, 1974, s. 11 (a)¹.

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

Subsec. (4) substituted by 40, 1974, s. 11 (b).

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

Minister to keep sewers cleansed.
106, 1878, s. 39.
Subsec. (1) amended by 48, 1946, s. 10.

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

Subsec. (2) amended by 48, 1946, ss. 6, 10.

33. (1) As soon as any sewer, or any part thereof, is completed so as to be ready for use in any street or other place within any drainage area, the Minister may demand that the owner or occupier of any land shall—

Owners and occupiers to make drains to public sewers.
106, 1878, s. 40.
1845, 1927, s. 4 (part).
Subsec. (1) amended by 48, 1946, s. 10; 79, 1972, s. 73 (a).

(a) construct such drains and fittings from and in connection with the land, to communicate with the said sewer, as the Minister may by notice prescribe; or

Para. (a) amended by 48, 1946, s. 10; 79, 1972, s. 73 (a).

(b) at his own expense alter or repair any drains and fittings already so constructed in such manner as the Minister from time to time thinks expedient.

Para. (b) amended by 48, 1946, s. 10.

(2) Any such demand may be made by giving a notice thereof in writing, signed by the Minister to the said owner or occupier, or by leaving the same at or upon the land.

Subsec. (2) amended by 48, 1946, s. 10; 79, 1972, s. 73 (b).

¹ The amendment made by s. 11 (a) of Act No. 40 of 1974 has been incorporated upon the assumption that the passage struck out from subsec. (3) of s. 31a had been correctly quoted.

PART IV

Subsec. (3)
amended by
48, 1946, s. 10;
40, 1974, s. 12.

(3) The said drains and fittings shall be made, constructed, and attached, or altered and repaired, according to such plans and directions as the Minister thinks proper for effectually carrying off all impurities from the said land.

Subsec. (4)
amended by
79, 1972,
s. 73 (c).

(4) The whole of the cost of the said drains and fittings both in any street and on the said land shall be paid by the owner or occupier thereof.

Owners and
occupiers to
make and repair
drains to public
sewers.
1366, 1919, s. 3.
S. 34 amended
by 48, 1946,
s. 10; 79, 1972,
s. 74.

34. In any case where any owner or occupier neglects or fails to alter or repair any drain or fitting when required so to do by a notice under section 33, within the time prescribed by the notice, and in every respect according to the plans and directions (if any) contained in or referred to in the notice, the Minister may enter upon the land of the owner or occupier, and alter or repair (according to the nature of the case) the drain or fitting, and may do all such things as may be necessary for that purpose, and the costs thereof and incidental thereto shall be recoverable by the Minister from the said owner or occupier in manner mentioned in section 35 and subject as therein provided.

Minister to
make drains in
default of
compliance with
orders.
106, 1878, s. 41.
Subsec. (1)
amended by
48, 1946, s. 10;
79, 1972,
s. 75 (a).

35. (1) The Minister may, by such notice as aforesaid, require the said drains and fittings to be made, constructed, and attached by any such owner or occupier within such time as the Minister may limit in that behalf; and if the same are not made within the prescribed time, or if the same are not made, constructed, and attached in every respect according to such plans and directions as aforesaid, the Minister may make, construct, and attach the same, and for that purpose may enter upon the land of the said owner or occupier, and excavate the ground, and make, construct, and lay down the said drains and fittings in, along, or over the land of any person.

Subsec. (2)
amended by
48, 1946, s. 10;
79, 1972,
s. 75 (b).

(2) In any such case the Minister may recover from every such owner or occupier, in a summary manner, the full amount of the expense of making the drains and fittings: Provided that no such proceedings shall in any case be taken until default has been made in payment of the said expenses for twenty-one days after a signed demand by the Minister for payment of the said expenses has been given to such owner or occupier, or has been left at the land in respect of which the drains and fittings have been made, constructed, or attached.

No cesspit to
be constructed
or used after
drains
completed.
106, 1878, s. 42.
Subsec. (1)
amended by
48, 1946, s. 10;
79, 1972, s. 76.

36. (1) After the construction of any such drains has been completed, no owner or occupier of any such land shall, without the written permission of the Minister, make or dig any cesspits or wells for the purpose of receiving or holding any sewage matter.

(2) Any person who so makes use of any cesspit or well without the said permission shall be liable to a penalty not exceeding ten dollars¹.

Method of
construction of
drains.
106, 1878, s. 43.
Subsec. (1)
amended by
48, 1946, s. 10.

37. (1) In every case where any owner or occupier makes, attaches, alters, or repairs any drain or fittings, all the provisions of this Act relating to the ground soils, pitchings, and pavements to be opened or broken up and reinstated, and making good and guarding the same, and repairing other damage, shall be complied with and observed by and apply to every such owner or occupier or other person, and their agents, servants, and workmen, in such and the like manner as is mentioned in this Act with respect to any sewer or fittings to be made or repaired by the Minister.

Subsec. (2)
amended by
48, 1946, s. 10.

(2) Upon default herein in any particular the said several matters may be forthwith done and performed by the Minister, and the said owner or occupier or other person shall be liable to pay the expenses so incurred by the Minister

¹ Pursuant to s. 8 of the Acts Republication Act, 1967, as amended, references to amounts of money expressed in decimal currency substituted for references to amounts of money expressed in the old currency.

and which may be occasioned by such default, together with a penalty not exceeding ten dollars¹.

38. (1) No person shall, without having previously given one week's written notice to the Minister, construct or alter any drain or fitting communicating with any sewer, and no person shall under any circumstances construct, attach, or alter any such drain or fitting, except according to such plans as the Minister approves, and in such manner as he directs.

No private drain or sewer to be made without notice.
106, 1878, s. 44.
Subsec. (1) amended by 48, 1946, s. 10.

(2) Any person contravening the provisions of this section shall be liable to a penalty not exceeding one hundred dollars¹.

39. (1) All drains and fittings communicating with any sewer shall from time to time be repaired and cleansed under the inspection or direction of the Minister at the expense of the owner or occupier of the land in respect of which the said drains have been constructed.

Drains to be cleansed.
106, 1878, s. 45.
1366, 1919, s. 4.
Subsec. (1) amended by 48, 1946, s. 10; 79, 1972, s. 77.

(2) If any owner or occupier neglects to repair or cleanse any such drain according to the direction of the Minister he shall be liable to a penalty not exceeding ten dollars¹.

Subsec. (2) amended by 48, 1946, s. 10.

(3) If any owner or occupier neglects to repair or cleanse any drain or fitting as required by this section, within the time prescribed by the Minister and according to his direction, the Minister may enter upon the land of the said owner or occupier and repair or cleanse (as the case may require) the drain or fitting, and may do all such things as may be necessary for that purpose, and the costs thereof and incidental thereto shall be recoverable by the Minister from the said owner or occupier in manner mentioned in section 35 and subject as therein provided.

Subsec. (3) amended by 48, 1946, s. 10; 40, 1974, s. 13.

40. The Central Board of Health may, in its discretion, by notice in writing, require any person whose land is connected with the sewers to construct such works and do such things as may be deemed necessary by the said board for deodorising or rendering as innocuous as possible any sewage matter before it enters the sewers.

Central Board of Health may require works constructed for deodorising sewage.
303, 1883-4, s. 8.
S. 40 amended by 79, 1972, s. 78.

41. The Minister may, at the request of the Central Board of Health, refuse to admit into any sewers or drains any solid or liquid sewage matter which would prejudicially affect the sewers or drains, or which would, from its temperature, nature, or otherwise, be injurious, and may, in order to prevent any such matter being admitted as aforesaid, cause any sewers or drains to be disconnected or closed.

Minister may refuse to admit certain sewage matter into sewers.
303, 1883-4, s. 9.
S. 41 amended by 48, 1946, s. 10.

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

Owners beyond drainage area.
106, 1878, s. 46.
S. 42 amended by 48, 1946, s. 10; 79, 1972, s. 79 (a), (b).

43. The Minister may, by agreement with and at the expense of the owner or occupier of any land within a drainage area, execute any drainage works on that land which the owner or occupier may be desirous to have so executed thereon.

Agreement with Minister.
106, 1878, s. 56.
S. 43 amended by 48, 1946, s. 10; 79, 1972, s. 80.

¹ Pursuant to s. 8 of the Acts Republishing Act, 1967, as amended, references to amounts of money expressed in decimal currency substituted for references to amounts of money expressed in the old currency.

Minister may agree to drain any lands, whether inside or outside a drainage area. 1556, 1923, s. 11.

Subsec. (1) amended by 48, 1946, s. 10; 79, 1972, s. 81.

Subsec. (2) amended by 48, 1946, s. 10; 79, 1972, s. 81.

Subsec. (3) amended by 48, 1946, s. 10; 79, 1972, s. 81; 40, 1974, s. 14.

Ventilators may be attached to buildings. 106, 1878, s. 47. S. 45 amended by 48, 1946, s. 10; 40, 1974, s. 15 (a), (b).

Payment of cost of construction of drains. 303, 1883-4, s. 2. Subsec. (1) amended by 48, 1946, s. 10; 40, 1974, s. 16 (a).

Subsec. (2) amended by 40, 1974, s. 16 (b).

Subsec. (4) amended by 40, 1974, s. 16 (c).

44. (1) The Minister may, by extension of a sewer or other work, lay down a sewer for the purpose of draining any land, either within or outside a drainage area, in pursuance of an agreement by the owner of the said land to pay to the Minister interest at a rate to be specified in the agreement on the owner's proportion, as fixed by the Minister, of the cost of the extension or other work.

(2) The Minister may levy upon any land which is drained pursuant to subsection (1) hereof an annual rate sufficient, in the opinion of the Minister, to produce the annual sum payable under the agreement entered into under the said subsection with respect to the said land.

(3) In any case where the Minister lays down any sewer in manner mentioned in subsection (1) hereof for the purpose of draining any land abutting on any street, and by means of the same sewer any other land abutting on that street is capable of being drained, but the owner of the last-mentioned land has not entered into an agreement with the Minister under subsection (1) hereof, the said owner shall nevertheless, if the Minister thinks proper, be deemed to have entered into such an agreement, and in that case his land shall be ratable under subsection (2) hereof accordingly.

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

46. (1) The cost of providing, laying down, constructing, and fixing in readiness for use such drains and fittings as are necessary for draining any land shall be payable to the Minister by the owner of the first estate of freehold in the said land.

(2) The said owner may charge any tenant to that owner of the said land at the time of the cost being incurred, interest during the remainder of the tenancy of the said tenant at the rate of seven dollars¹ per centum per annum on the amount of the cost, from the time of the same being paid by the owner or of the owner becoming liable to pay interest thereon.

(3) The said interest shall be paid by the tenant to the owner at the times appointed for the payment of rent under the tenancy, and shall be a debt from the tenant to the owner, and shall also be recoverable by distress in the same manner as the rent reserved.

(4) Every tenant or sub-tenant who is charged interest under this section may in like manner charge any sub-tenant to the said tenant or sub-tenant of the said land at the time of the said cost being incurred, with interest during the remainder of the sub-tenancy, and the said interest shall be paid by the said sub-tenant at the times appointed for the payment of rent under the sub-tenancy, and shall be a debt from the sub-tenant, and shall also be recoverable by distress in the same manner as the rent reserved under the sub-tenancy.

(5) The provisions of this section shall not invalidate or affect any existing or future contract.

¹ Pursuant to s. 8 (2) of the Acts Republishing Act, 1967, as amended, a reference to the percentage expressed in decimal currency has been substituted for the reference to the percentage expressed in the old currency.

47. Where any owner is liable under this Act to bear the cost of the works referred to in section 46, that owner may make application in writing to the Minister asking that the works referred to in that section may be done under the direction of the Minister on a system of deferred payment, and thereupon the Minister may enter into an agreement with the applicant for the doing of the said works, under the direction of the Minister, at a price to be therein named, and for the payment of the said price by the applicant to the Minister by quarterly instalments extending over a period of not more than six years from the date of the completion of the works, with interest at a rate to be specified in the agreement, on the balance for the time being remaining unpaid.

Persons liable to make connections may apply to have work done on deferred payments.
303, 1883-4, s. 4.
369, 1886, s. 2.
1845, 1927, s. 7.
S. 47 amended by 48, 1946, s. 10.

48. Upon the execution of any such agreement by the applicant, the Minister shall cause the works aforesaid to be done, and forthwith upon the completion thereof shall give notice in writing to the applicant of the said completion, and of the quarterly days on which the instalments of payment will respectively fall due.

Minister upon completion of work to give notice to applicant.
303, 1883-4, s. 5.
S. 48 amended by 48, 1946, s. 10.

PART V

PART V

PROVISIONS FOR THE PROTECTION OF THE DRAINAGE WORKS

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

Notice of building or rebuilding to be given to Minister.
106, 1878, s. 49.
Subsec. (1) amended by 48, 1946, s. 10; 40, 1974, s. 17 (a), (b).

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

Subsec. (2) amended by 48, 1946, s. 10; 40, 1974, s. 17 (c).

(3) Any person failing to deliver such notice as aforesaid, or either wholly or partially building, rebuilding, extending or constructing or causing to be either wholly or partially built, rebuilt, extended or constructed, any house, building, structure, privy, cesspit, or drain, without such approval as aforesaid, shall be liable to a penalty not exceeding one hundred dollars¹.

Subsec. (3) amended by 40, 1974, s. 17 (d).

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

Power to pull down buildings.
106, 1878, s. 50.
S. 50 amended by 48, 1946, s. 10.

¹ Pursuant to s. 8 of the Acts Republishation Act, 1967, as amended, references to amounts of money expressed in decimal currency substituted for references to amounts of money expressed in the old currency.

Power of Minister to authorize inspection.
106, 1878, s. 51.
S. 51 amended by 48, 1946, s. 10; 79, 1972, s. 82 (a), (b); 40, 1974, s. 18.

51. The Minister, or his surveyor or inspector, or such other person or persons as he may appoint, may inspect any land within a drainage area, and any drain, watercloset, privy, cesspit, water supply apparatus, or fitting, and may for that purpose at all reasonable times in the daytime—

Para. (a) amended by 79, 1972, s. 82 (b).

(a) after twenty-four hours' notice in writing has been given to the occupier of, or left upon, the land to which the drain, watercloset, privy, cesspool, water supply apparatus, or fitting is attached; or

(b) in case of emergency, without notice,

enter, by himself or his surveyor or inspector or workmen, upon any such land, and, for the purpose of any such inspection, may cause the ground to be opened in any place he thinks fit, doing as little damage as may be.

Penalties on persons encroaching on sewers.
106, 1878, s. 52.
Subsec. (1) amended by 48, 1946, s. 10; 40, 1974, s. 19 (a).

52. (1) Every person who erects, constructs, or places any building, wall, bridge, fence, obstruction, annoyance, or encroachment in, upon, over, or under any sewer or drain, and every person who obstructs, fills in, closes up, or diverts any sewer or drain, without the previous consent in writing of the Minister shall, in addition to any other penalty to which he may be liable thereby, pay to the Minister a sum not exceeding forty dollars¹.

Subsec. (2) amended by 48, 1946, s. 10.

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

Subsec. (3) amended by 48, 1946, s. 10.

(3) In case of a continuing offence in any of the cases aforesaid, the offender shall be liable to a further penalty not exceeding ten dollars¹ for every day after notice thereof has been given by the Minister to the offender, and the said penalties and expenses shall be recoverable either by action in any court of competent jurisdiction or in a summary manner, at the option of the Minister.

Subsec. (3a) inserted by 40, 1974, s. 19 (b).

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

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

¹ Pursuant to s. 8 of the Acts Republishing Act, 1967, as amended, references to amounts of money expressed in decimal currency substituted for references to amounts of money expressed in the old currency.

53. (1) Before beginning—

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

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

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

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

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

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

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

54. (1) No person shall, without the written permission of the Minister—

- (a) sweep, rake, or place any dust, soil, rubbish, filth, or any other thing into any sewer, or over any grate communicating with any sewer; or
- (b) knowingly suffer any dust, soil, rubbish, filth, or other thing from the premises of the said person to obtain admission into any sewer.

Duty to give notice before paving street, etc.
S. 53 substituted by 51, 1962, s. 5.

Minister may refuse admission of rubbish into sewers.
106, 1878, s. 55.
Subsec. (1) amended by 48, 1946, s. 10.

Subsec. (2)
amended by
48, 1946, s. 10.

(2) No storm waters or surface drainage of streets shall be admitted into any sewer except with the express approval and consent of the Minister.

(3) Every person who commits an offence against the provisions of this section shall be liable to a penalty not exceeding ten dollars¹.

Rain water not
to be admitted
to sewers
without
Minister's
consent.

1556, 1923,
s. 10.

Subsec. (1)
amended by
48, 1946, s. 10;
79, 1972, s. 83.

55. (1) Any person who, without the consent in writing of the Minister, causes, permits, or suffers any rain water, storm water, or surface water to flow into or obtain admission to any sewer, or any drain communicating with any sewer, and also the owner or occupier of any land at the time when rain water, storm water, or surface water is caused, permitted, or suffered to flow into or to obtain admission to any sewer or any drain communicating with any sewer upon, under, or about the said land, shall be liable to a penalty not exceeding ten dollars¹, and a further penalty not exceeding two dollars¹ for every day on which the offence continues.

Subsec. (2)
amended by
2293, 1936, s. 4
(2nd Sched.).

(2) For the purposes of this section a plan certified by the Engineer-in-Chief and purporting to be a true plan of the site of any drain communicating with any sewer and purporting to show such communication shall be *prima facie* evidence of the existence and site of the drain and of the communication of the drain with a sewer.

Powers of
Minister to
remove fittings
permitting
entrance of rain
water into
sewers.

1634, 1924, s. 3.

Subsec. (1)
amended by
48, 1946, s. 10;
79, 1972,
s. 84 (a).

56. (1) The Minister may give notice requiring the owner or occupier of any land to remove any pipe, fitting, gutter, or other contrivance upon the said land whereby any rain water, storm water, or surface water may flow into, obtain admission to, or be diverted into any drain communicating with any sewer.

Subsec. (2)
amended by
48, 1946, s. 10;
79, 1972,
s. 84 (a).

(2) The said notice shall be in writing signed by the Minister and may be given by delivering the same to the owner or occupier or by leaving the same upon the said land. Every notice shall specify the time within which the pipe, fitting, gutter, or other contrivance shall be removed.

Subsec. (3)
amended by
48, 1946, s. 10;
79, 1972,
s. 84 (a), (b).

(3) If any owner or occupier after service of notice as aforesaid fails within the time specified in the notice to remove any such pipe, fitting, gutter, or other contrivance specified in the notice, he shall be liable to a penalty not exceeding ten dollars¹, and, in addition, the Minister may enter upon the land and remove the pipe, fitting, gutter, or other contrivance, and may, in the same proceedings for an offence under this section or otherwise, summarily recover the costs of the removal from the owner or occupier of the said land.

Subsec. (4)
amended by
2293, 1936, s. 4
(2nd Sched.).

(4) For the purposes of this section a plan certified by the Engineer-in-Chief and purporting to be a true plan of the site of any drain communicating with any sewer and purporting to show such communication shall be *prima facie* evidence of the existence and site of the drain and of the communication of the drain with a sewer.

Penalty for
destroying
sewers and
fittings.

106, 1878, s. 57.

S. 57 amended
by 48, 1946,
s. 10.

57. Every person who, not being authorized thereto by the Minister, wilfully or carelessly breaks, injures, or opens or wilfully permits to be broken, injured, or opened any sewer, drain, or fitting, or any work, engine, or other part of the undertaking, shall pay to the Minister a sum not exceeding ten dollars¹, in addition to the amount of the expense to which the Minister may be put in respect thereof in repairing the sewer, drain, fitting, work, engine, or part of the undertaking, and the amount of the said expense shall be ascertained, determined, and recovered in the same manner as the said sum.

¹ Pursuant to s. 8 of the Acts Republishing Act, 1967, as amended, references to amounts of money expressed in decimal currency substituted for references to amounts of money expressed in the old currency.

58. Every person who wilfully pulls up or removes any pole or stake driven into the ground for the purpose of setting out the line of any works connected with the undertaking, or defaces or destroys any works made for the same purpose, shall be liable to a penalty not exceeding ten dollars¹.

Penalty for interference with works.
106, 1878, s. 37.

59. Every person who at any time obstructs, hinders, or molests any surveyor, inspector, collector, or other officer, workman, or person whomsoever employed by virtue of this Act in the performance or execution of his duty shall for a first offence be liable to a penalty not exceeding fifty cents¹, for a second offence to a penalty not exceeding two dollars¹, and for any subsequent offence to a penalty not exceeding ten dollars¹.

Penalty for interrupting officers in execution of duty.
106, 1878, s. 58.

60. (1) If the occupier of any land refuses or neglects to allow the owner thereof to carry into effect with respect to that land any of the provisions of this Act, or any order of the Minister made in pursuance thereof, he shall be liable to a penalty not exceeding ten dollars¹ for every day during the continuance of such refusal or neglect.

Penalty on occupiers obstructing execution of works by owner.
106, 1878, s. 59.
Subsec. (1) amended by 48, 1946, s. 10; 79, 1972, s. 85 (a).

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

Subsec. (2) amended by 48, 1946, s. 10; 79, 1972, s. 85 (b).

(3) If the said occupier neglects or refuses to attend at the time and place so appointed, or does not show good cause for the said neglect or refusal, or if the said wilful omission or misstatement is proved, the justice before whom the occupier is so summoned may impose upon the occupier a penalty not exceeding ten dollars¹.

PART VI

PART VI

RATES

Heading amended by 79, 1972, s. 86.

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S. 61 amended by 2293, 1936, s. 4; substituted by 40, 1966, s. 13; repealed by 79, 1972, s. 87.

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Ss. 62, 63 repealed by 79, 1972, s. 87.

* * * * *

S. 64 amended by 2293, 1936, s. 4; 48, 1946, s. 7; repealed by 79, 1972, s. 87.

65. No land—

(a) used exclusively for charitable purposes;

(b) used exclusively for the purposes of public worship;

or

(c) occupied and used by any municipal corporation within a drainage area exclusively for municipal purposes, and not underlet to, or

Exemption from sewerage rates.

S. 65 amended by 48, 1946, s. 10; substituted by 79, 1972, s. 88.

¹ Pursuant to s. 8 of the Acts Republication Act, 1967, as amended, references to amounts of money expressed in decimal currency substituted for references to amounts of money expressed in the old currency.

occupied for other than municipal purposes by, any tenant of the corporation,

shall be subject to sewerage rates.

Government lands to be assessed.

783, 1902, s. 9.

Subsec. (1) amended by 48, 1946, s. 10; 79, 1972, s. 89 (a), (b); 40, 1974, s. 20; 24, 1975, s. 3 (1) (2nd. Sched.).

66. (1) All land situated within the drainage area which is used by the Government of the State, or by the officers or servants of the said Government, exclusively for the purposes of the said Government, and all premises consisting of schoolhouses situated within the drainage area which are used pursuant to the Education Act, 1972, as amended¹, or pursuant to any corresponding previous enactment, as Government schools or public schools shall be subject to sewerage rates.

Subsec. (2) amended by 48, 1946, s. 10; substituted by 79, 1972, s. 89 (c).

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

S. 67 amended by 48, 1946, s. 10; repealed by 79, 1972, s. 90.

* * * * *

Fees may be charged for drainage and sewerage of land exempt from rating.

1366, 1919, s. 9 (2).

S. 68 amended by 48, 1946, s. 10; 79, 1972, s. 91 (a), (b), (c), (d); 24, 1975, s. 3 (1) (2nd. Sched.).

68. Fees in accordance with the scale for the time being in force prescribed by regulation made under this Act to be paid for the drainage of, and the removal of sewerage matter from, land that is exempt from rating under this Act, shall be payable, on demand, to the Minister by the owners or occupiers of the land: Provided that the total amount of fees payable by any owner or occupier by virtue of any such regulation shall not exceed the amount of the rates which would have been payable by him if the land owned or occupied by him had been rated under this Act.

S. 69 amended by 48, 1946, s. 10; 40, 1966, s. 14; repealed by 79, 1972, s. 92.

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S. 70 amended by 48, 1946, s. 10; 40, 1966, s. 15; repealed by 79, 1972, s. 92.

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Ss. 71, 72 amended by 48, 1946, s. 10; repealed by 79, 1972, s. 92.

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Determination of rates.

S. 73 amended by 48, 1946, s. 10; substituted by 79, 1972, s. 92.

Subsec. (1) substituted by 40, 1974, s. 21 (a).

73. (1) Subject to subsection (6) of this section, the Minister may, by notice published in the *Gazette*, fix the scale or scales upon which sewerage rates to be levied in respect of land subject thereto within any drainage area or drainage areas shall be calculated.

(2) Sewerage rates shall be calculated, in accordance with the scale fixed under subsection (1) of this section, on the basis of determinations of the annual value of land subject thereto, in force under the Valuation of Land Act, 1971-1972², at the first day of July last preceding the publication of the notice.

(3) A determination of annual value shall be deemed to be in force at the time referred to in subsection (2) of this section if it is in force as at that time under the Valuation of Land Act, 1971-1972², whether the determination is actually made before or after that time.

(4) Where a determination of annual value, in force at the time referred to in subsection (2) of this section, is subsequently corrected or amended

¹ Now Education Act, 1972-1974.

² Now Valuation of Land Act, 1971-1975.

pursuant to the provisions of the Valuation of Land Act, 1971-1972¹, (whether in pursuance of an objection or appeal under that Act, or otherwise) the determination of value, as corrected or amended, shall be deemed to have been in force at the time referred to in subsection (2) of this section.

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

Subsec. (5)
inserted by
40, 1974,
s. 21 (b).

(a) according to the drainage area or portion thereof in which the land subject to the rates is situated;

(b) according to whether the land is vacant land or not;

or

(c) according to any other factor.

(6) The annual sewerage rates in respect of land within a country drainage area shall not exceed twelve and one-half cents for each dollar of the annual value of that land.

Subsec. (6)
inserted by
40, 1974,
s. 21 (b).

74. The sewerage rates calculated under section 73 of this Act may be recovered by the Minister in accordance with this Act, and his right so to recover them shall not be suspended or delayed by an objection to or appeal against a valuation under the Valuation of Land Act, 1971-1972¹, and the Minister may recover sewerage rates on the assumption that the valuation is correct, but if any alteration to a valuation affecting the amount of sewerage rates payable in respect of any land is made under that Act (whether in consequence of an objection 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.

Recovery not to
be delayed.
S. 74 amended
by 48, 1946,
s. 10; 24, 1955,
s. 3; 40, 1966,
s. 16; substituted
by 79, 1972,
s. 92.

* * * * *

S. 74a enacted
by 24, 1955,
s. 4²; amended
by 65, 1960,
s. 3 (a), (b);
repealed by
40, 1974, s. 22.

75. (1) The Minister may fix a minimum sewerage rate in respect of any land.

Power of
Minister to fix
minimum
sewerage rates.
1745, 1926, s. 5.
Subsec. (1)
amended by
24, 1955,
s. 5 (a)²;
65, 1960,
s. 4 (a);
substituted by
79, 1972,
s. 93 (a).

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

Subsec. (2)
substituted by
79, 1972,
s. 93 (a).

(3) Without limiting the application of this section, the Minister may, with respect to any land situated in a country drainage area, fix a minimum sewerage rate payable in respect of the financial year commencing on the first day of July, 1960³, and succeeding financial years.

Subsec. (3)
inserted by
24, 1955,
s. 5 (b)²;
substituted by
65, 1960,
s. 4 (b);
amended by
79, 1972,
s. 93 (b).

¹ Now Valuation of Land Act, 1971-1975.

² For application of Act No. 24 of 1955 see s. 7 of that Act.

³ Reference to the year one thousand nine hundred and sixty altered to 1960 pursuant to s. 7 (1) of the Acts Republication Act, 1967, as amended.

Subsec. (4)
inserted by
79, 1972,
s. 93 (c).

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

S. 75a enacted
by 48, 1946,
s. 8; repealed by
24, 1955, s. 6¹.

* * * * *

S. 76 repealed
by 79, 1972,
s. 94.

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Power to
reduce scale of
sewerage rates.
106, 1878, s. 71.
Subsec. (1)
amended by
48, 1946, s. 10;
79, 1972, s. 95.

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

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

Remission of
sewerage rates.
S. 77a enacted
by 16, 1974,
s. 8.

77a. (1) A person who is eligible for the remission of sewerage rates under this section, shall, subject to subsections (3) and (4) of this section, be entitled to the following remission in respect of sewerage rates for any financial year:—

(a) three-fifths of the sewerage rates to which he would, apart from this section, be liable;

or

(b) fifty dollars,

Para. (b)
substituted by
98, 1975, s. 7.

whichever is the lesser.

(2) A person is eligible for the remission of sewerage rates under this section if he is declared to be eligible for the remission of rates and land tax pursuant to the Rates and Taxes Remission Act, 1974.

(3) Where a person, who is eligible for the remission of sewerage rates under this section, is liable for the payment of sewerage rates on any land jointly with some other person (not being his spouse) who is not so eligible, he shall be entitled to such proportion of the remission of sewerage rates prescribed by this section, as is stated in the declaration under the Rates and Taxes Remission Act, 1974.

(4) The remission prescribed by this section applies only to rates payable upon land that constitutes the ratepayer's principal place of residence.

Initiation of
liability to rates.
S. 78 amended
by 40, 1966,
s. 17; 47, 1967,
s. 3; substituted
by 53, 1970,
s. 5.

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

Subsec. (2)
amended by
79, 1972, s. 96.

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

¹ For application of Act No. 24 of 1955 see s. 7 of that Act.

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

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

Subsec. (4)
amended by
79, 1972, s. 96;
40, 1974, s. 23.

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

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

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

Power to make
rates payable
quarterly.
S. 79 substituted
by 40, 1966,
s. 18.
Subsec. (1)
amended by
79, 1972,
s. 97 (a).

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

Subsec. (2)
amended by
79, 1972,
s. 97 (b).

80. (1) A notice containing particulars of any amount (other than a pecuniary penalty) payable to the Minister by any person under this Act, or under any by-law or regulation or agreement made under this Act (which notice may also contain particulars of an amount payable to the Minister under the Waterworks Act, 1932-1972¹), shall be given to that person as soon as conveniently may be after the amount becomes payable.

Service of
notice of
amount due to
Minister and
method of
recovery
thereof.
1366, 1919, s. 6.
Subsec. (1)
amended by
48, 1946, s. 10;
79, 1972,
s. 98 (a).

(2) The notice may be given—

(a) by delivering the same to the person by whom the amount is payable, or by leaving the same at his usual residence or place of business with some person apparently above the age of fourteen years; or

(b) by leaving the same upon the land with respect to which, or to any fitting upon or in which, the amount is payable; or

Para. (b)
amended by
79, 1972,
s. 98 (b).

(c) by posting the same enclosed in a prepaid envelope addressed to the person by whom the amount is payable, at his last known or most usual place of abode or business:

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

¹ Now Waterworks Act, 1932-1975.

Subsec. (3)
amended by
48, 1946, s. 10;
79, 1972,
s. 98 (c).

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

(a) avail himself for the purpose of recovering the said amount of any or all of the methods or remedies provided by this Act for the recovery of sewerage rates in arrear; and

Para. (b)
amended by
48, 1946, s. 10;
79, 1972,
s. 98 (c).

(b) cut off the supply of water to the land in respect of which, or of any fitting upon or in which, the said amount is payable, until the said amount, together with all expenses incurred by the Minister in cutting off the said supply and the estimated cost of restoring the said supply, have been paid:

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

When several
premises
drained by one
drain each
owner or
occupier to pay.
106, 1878, s. 74.
S. 81 amended
by 79, 1972,
s. 99 (a), (b).

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

Collector may
collect rents
when sewerage
rates in arrear.
106, 1878, s. 76.
Subsec. (1)
amended by
79, 1972, s. 100;
40, 1974,
s. 24 (a).

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

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

Subsec. (3)
amended by
48, 1946, s. 10;
40, 1974,
s. 24 (b).

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

Subsec. (4)
amended by
48, 1946, s. 10.

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

Reimbursement
of rates payable
by owner paid
by tenant, and
rates payable by
tenant paid by
owner.
106, 1878, s. 77.
Subsec. (1)
amended by
79, 1972, s. 101;
40, 1974, s. 25.

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

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

(3) If any such owner has paid any sewerage rate properly payable by the occupier or lessee, the owner may recover the amount so paid from the said

occupier or lessee, or may distrain for and recover the same in the same manner as if the same were rent in arrear.

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

Rates paid by tenant.
106, 1878, s. 78.
S. 84 amended by 79, 1972, s. 102.

85. In any case where water rates and sewerage rates, particulars of which are comprised in the same document pursuant to section 80, remain unpaid after the date whereon the same are respectively payable, the said sewerage rates shall, for the purpose of enabling payment to be enforced, be deemed to be payable to the Minister pursuant to the Waterworks Act, 1932¹; and for that purpose the Minister shall have, and may avail himself of or exercise in his own name, all or any of the powers, rights, and authorities and methods and remedies which he has, or might exercise or avail himself of, for the purpose of enforcing payment of water rates in arrear.

Recovery of water rates and sewerage rates together where both included in one notice.
1366, 1919, s. 10.
S. 85 amended by 48, 1946, s. 9 (a), (b); 79, 1972, s. 103.

PART VIA

POWER TO LEASE DRAINAGE WORKS

PART VIA

Part VIA and heading inserted by 27, 1953, s. 3.

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

Power to lease.
Cf. 2101, 1932, s. 106.
S. 85a enacted by 27, 1953, s. 3.

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

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

Power to accept surrenders.
Cf. 2101, 1932, s. 107.
S. 85b enacted by 27, 1953, s. 3.

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

Powers of lessees.
Cf. 2101, 1932, s. 108.
S. 85c enacted by 27, 1953, s. 3.

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

¹ Now Waterworks Act, 1932-1975.

PART VIA

Rating powers
of lessees.
Cf. 2101, 1932,
s. 109.
S. 85d enacted
by 27, 1953,
s. 3.

85d. Whenever any drainage works are leased under this Part it shall be competent for the Minister in the lease or the Governor by proclamation, to confer on the lessees, during the term of any lease, all or any of the powers in Part VI 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 VII

PART VII

LEGAL PROCEDURE

Ss. 86, 87
repealed by
79, 1972, s. 104.

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S. 88 amended
by 48, 1946,
s. 10; 61, 1969,
s. 4; repealed by
79, 1972, s. 104.

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S. 89 amended
by 48, 1946,
s. 10; 61, 1969,
s. 5; repealed by
79, 1972, s. 104.

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S. 90 repealed
by 61, 1969,
s. 6.

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S. 91 amended
by 48, 1946,
s. 10; repealed
by 79, 1972,
s. 105.

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Power to
distrain for
sewerage rates
in arrear.
1366, 1919, s. 7.
1845, 1927, s. 6.
Subsec. (1)
amended by
48, 1946, s. 10;
79, 1972,
s. 106 (a).

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

(a) recover the said rates with costs; or

Para. (b)
amended by
79, 1972,
s. 106 (a).

(b) issue a warrant to a bailiff or other person referred to in the warrant (whether by name or by reference to his office) to levy the said rates, together with fees and expenses not exceeding the fees and expenses which a bailiff is entitled to charge in the case of an execution under the Local Courts Act, 1926¹, by distress and sale of the goods and chattels, wheresoever they may be found, of the owner or occupier, at the time when the warrant is executed, of the land with respect to which the said rates are payable.

Subsec. (2)
amended by
48, 1946, s. 10;
79, 1972,
s. 106 (b).

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

Subsec. (3)
amended by
79, 1972,
s. 106 (b).

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

¹ Now Local and District Criminal Courts Act, 1926-1975.

owner shall be liable for the said rates and the same may be recovered from him.

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

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

(5) Any bailiff or other person to whom a warrant has been issued under this section shall, for the purpose of executing the warrant, have all the powers and authorities of a bailiff under the Local Courts Act, 1926¹.

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

Amounts due to Minister to be a charge upon the land and recoverable from owner or occupier.
1366, 1919, s. 8.

(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.

Subsec. (1) amended by 48, 1946, s. 10; 79, 1972, s. 107.

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

Subsec. (3) amended by 79, 1972, s. 107.

94. (1) Whenever any sewerage rates in respect of any land, or the cost of providing, laying down, constructing, and fixing in readiness for use such drains and fittings as are necessary for draining any land, is in arrear for the space of two years, the Minister may cause to be published three times in the *Government Gazette* a notice specifying the land and the amount of sewerage rates or other sum as aforesaid due in respect thereof and stating that, if the rates or sum is not paid within one year from the first publication of the notice, the Minister will let the same from year to year as provided by this Act, or will apply to the Supreme Court for a sale thereof.

Lands may be sold when rates or certain expenses are in arrear.
106, 1878, s. 89.
303, 1883-4, s. 6.

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

Subsec. (2) amended by 48, 1946, s. 10; 79, 1972, s. 108.

- (a) let the land from year to year, and may receive the rents and apply the same towards the payment of the sewerage rates or other sum as aforesaid and other costs and expenses, and hold any surplus for the owners of the land; or

Para. (a) amended by 79, 1972, s. 108.

- (b) by petition to the Supreme Court, or a judge thereof, apply for a sale of the land described in the notice, or of so much as may be necessary.

(3) The court or judge, on being satisfied, by affidavit or otherwise, that the arrears are lawfully due and were in arrear at the time of the first

Subsec. (3) amended by 48, 1946, s. 10.

¹ Now Local and District Criminal Courts Act, 1926-1975.

publication of the notice, and that all acts required by this section to be done by the Minister have been done, may order—

- (a) that the said land be sold, or so much thereof as is sufficient to pay all arrears due up to the time of sale, together with interest at five per centum per annum on such arrears as were then due from the time of the first publication of the notice, together with all costs of and attending the notice, and the costs of and attending the application, and of and attending the sale by public auction; and
 - (b) that the proceeds of the sale be paid into court; and
 - (c) that payment of the said sewerage rates, other sum as aforesaid, interest, costs, and expenses be made in preference to any mortgage or other security; and
 - (d) that the conveyance or transfer, as the case may be, shall be executed by the Master or some other officer of the court to the purchaser, his executors, administrators, and assigns, in a form to be approved by the court or a judge.
- (4) The said conveyance or transfer shall vest the legal estate in the sold land in the purchaser, his executors, administrators, and assigns, free from all encumbrances.
- (5) In any case where the land is under the provisions of The Real Property Act, 1886¹, the purchaser shall be entitled to receive a certificate of title to the land purchased.
- (6) The balance arising from the proceeds of any such sale shall remain and be subject to any future or other order of the court, for the benefit of the party or parties interested therein.

Persons causing
offences liable.
106, 1878, s. 90.

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

Power to
Minister to
apportion
payments.
106, 1878, s. 91.
S. 96 amended
by 48, 1946,
s. 10.

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

Recovery of
moneys due to
Minister.
106, 1878, s. 92.
Subsec. (1)
amended by
48, 1946, s. 10.

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

Subsec. (2)
amended by
48, 1946, s. 10.

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

S. 98 repealed
by 40, 1974,
s. 26.

* * * * *

¹ Now Real Property Act, 1886-1975.

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

Appropriation of moneys recovered under this Act.
106, 1878, s. 94.
S. 99 amended by 48, 1946, s. 10.

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

Gazette to be evidence in certain cases.
106, 1878, s. 95.
S. 100 amended by 48, 1946, s. 10.

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

Certificate of Minister.
S. 100a enacted by 53, 1970, s. 6.
Subsec. (1) amended by 79, 1972, s. 109.

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

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

Service of notices.
106, 1878, s. 96.
Subsec. (1) amended by 79, 1972, s. 110 (a).

(a) may be served personally upon the said owner, occupier, or person;
or

(b) may be left with some inmate of his place of abode; or

(c) may, if there is no occupier, be affixed to some conspicuous part of the land.

Para. (c) amended by 79, 1972, s. 110 (a).

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

Subsec. (2) amended by 79, 1972, s. 110 (a).

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

Subsec. (3) amended by 48, 1946, s. 10; 79, 1972, s. 110 (b).

(a) served on the owner personally, or left with some inmate of his place of abode; or

(b) transmitted to the said owner through the post office addressed to him at his place of abode, or last known place of abode, in South Australia; or

(c) served on his agent in manner aforesaid.

102. Every notice, demand, or like document given by or on behalf of the Minister under this Act may be in writing or print, or partly in writing and partly in print, and shall be sufficiently authenticated if it is signed by the Minister, or by the officer by whom the same is given, or if the name of the Minister or other officer is printed thereon.

Authentication of notices.
106, 1878, s. 97.
S. 102 amended by 48, 1946, s. 10.

PART VII

Minister may
remit fines.
106, 1878, s. 98.
S. 103 amended
by 48, 1946,
s. 10.

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

Proceedings
against persons
acting under
this Act.
106, 1878,
s. 100.
Subsec. (1)
amended by
40, 1974,
s. 27 (a), (b).

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

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

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

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

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

Tender of
amends.
106, 1878,
s. 101.

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

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

Summary
proceedings.

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

THE SCHEDULE

ACTS REPEALED

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