



ANNO DECIMO OCTAVO

ELIZABETHAE II REGINAE

A.D. 1969

No. 48 of 1969

An Act to provide for conserving and preventing the contamination and deterioration of underground waters, to repeal the Underground Waters Preservation Act, 1959-1966, and for other purposes.

[Assented to 27th November, 1969.]

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 "Underground Waters Preservation Act, 1969". Short title.

2. This Act shall come into operation on a day to be fixed by proclamation. Commencement.

3. The Underground Waters Preservation Act, 1959, and the Underground Waters Preservation Act Amendment Act, 1966, are repealed. Repeal.

4. This Act is arranged as follows :—

Arrangement Act.

PART I.—PRELIMINARY, ss. 1-6.

PART II.—WELLS, ss. 7-23.

PART III.—UNDERGROUND WATERS ADVISORY
COMMITTEE, ss. 24-27.

PART IV.—WELL DRILLERS, ss. 28-39.

PART V.—APPEALS, ss. 40-51.

PART VI.—GENERAL PROVISIONS, ss. 52-61.

Transitional
provisions.

5. (1) For the purposes of this Act, a permit in force under the repealed Act immediately before the commencement of this Act, shall be deemed to be a permit under this Act and shall, subject to the provisions of this Act, remain in force for the term for which it was granted or last renewed, or for a period of one year after the commencement of this Act, whichever first expires.

(2) For the purposes of this Act, a licence in force under the repealed Act immediately before the commencement of this Act, shall be deemed to be a licence under this Act and shall, subject to the provisions of this Act, remain in force for the term for which it was granted or last renewed.

(3) A permit or licence that continues in force under this section shall, subject to this Act, confer the same rights and privileges subject to the same terms and conditions as under the repealed Act.

(4) An appeal instituted under the repealed Act and not finally disposed of at the commencement of this Act, may be heard and determined in all respects as if that Act were still in force and this Act had not been enacted.

(5) The Underground Waters Appeal Board constituted under the repealed Act shall remain in existence, and the provisions relating thereto shall remain in operation, so long as may be necessary for the disposal of all appeals instituted under the repealed Act and not finally disposed of at the commencement of this Act.

(6) Effect shall be given under the provisions of this Act to a decision or direction made or given after the commencement of this Act upon an appeal instituted under the repealed Act.

(7) Where immediately before the commencement of this Act a right of appeal existed under the repealed Act but no appeal had been instituted in pursuance thereof, the right of appeal shall be deemed to be a right of appeal to the appeal board under this Act, and may, subject to the provisions of this Act, be exercised in all respects as if the decision or direction subject to appeal were a decision or direction given under this Act.

6. (1) In this Act, unless the contrary intention appears— Interpretatio .

“the appeal board” or “the board” means the “Underground Waters Appeal Board” constituted under Part V of this Act :

“the advisory committee” means the Underground Waters Advisory Committee constituted under Part III of this Act :

“artesian well” means a well from which water flows naturally to the surface of the earth :

“authorized person” means a person authorized, appointed or employed by the Minister for the purpose of assisting in the administration or enforcement of the provisions of this Act, and includes a member of the advisory committee, the examination committee or the appeal board :

“defined area” means an area constituted a defined area by regulation :

“the Director” means the person for the time being holding or acting in the office of Director of Mines :

“the examination committee” means the Well Drillers’ Examination Committee constituted under Part IV of this Act :

“licence” means a well driller’s licence for the time being in force under this Act :

“occupier” includes a person who is entitled to the occupation of land :

“owner” in relation to land means—

(a) a person who is the holder of, or is entitled to, an estate of freehold possession in land ;

(b) a mortgagee in possession of land ;

(c) a lessee holding land under a lease granted by the Crown .

or

(d) a person who is, under an agreement for sale and purchase of land, the purchaser of, or entitled to purchase, the land from the Crown :

“permit” means a permit for the time being in force under this Act and includes a document annexed to the permit upon which conditions to which the permit is subject are endorsed :

“the prescribed depth” in connection with a well, or proposed well, means for the purposes of Part II of this Act the depth prescribed in relation to the defined area in which the well is, or is to be, situated and means, for the purposes of Part IV of this Act a depth prescribed for the purposes of that Part in relation to the defined area, or other area, within which the well is, or is to be, situated :

“the repealed Act” means the Underground Waters Preservation Act, 1959-1966, repealed by this Act :

“underground water” means water under the surface of the earth other than water in drains, structures or other works constructed by man, and includes water under the surface of the earth that is partly exposed in natural openings or depressions :

“well” means well, bore, hole, excavation or other opening made for the purpose of procuring a supply of underground water, or for the purpose of drainage, or extending to a waterbearing stratum or region, together with all works constructed or erected in connection therewith but does not include any well used exclusively for the drainage of waters from a private dwelling and its curtilage or any soakage pit used for the disposal of effluent from any septic tank or of waste water from a private dwelling.

(2) Where land of the Crown is under the control or management of a Minister, an instrumentality of the Crown, or a public authority (other than the Minister of Mines) that Minister, instrumentality or public authority shall, for the purposes of Part II of this Act, be deemed to be the owner and occupier thereof.

PART II.

PART II.

WELLS.

7. (1) A person who, when an area is constituted a defined area by regulation, is the owner or occupier of land within that area on which there is a well, shall, within three months after the day on which the area is so constituted a defined area, send a notice to the Minister setting out such information in relation to the well as may be prescribed.

Notification of wells.

Penalty : Two hundred dollars.

(2) This section shall apply in relation to every well, whether the construction thereof has, or has not, been completed.

8. (1) If within a defined area—

(a) any well is drilled, constructed, plugged, backfilled or sealed off ;

(b) the casing, lining or screen of a well is removed, replaced, altered, slotted or repaired ;

or

(c) a well (whether in the course of construction or not) is deepened,

Permit for operations.

except in pursuance of a permit, the owner and occupier of the land on which the well is situated, and the person (if any) employed to carry out the work, shall each be guilty of an offence.

Penalty : Two hundred dollars.

(2) If within a defined area either of the following changes in the use of a well is made :—

(a) a well that was not being used for, or in connection with, the drainage of water or effluent is used for that purpose ;

or

(b) a well that was being used for, or in connection with the drainage of water or effluent is used as a source of water,

except in pursuance of a permit, the owner and occupier of the land on which the well is situated shall each be guilty of an offence.

Penalty : Two hundred dollars for the first day on which the offence is committed and, in addition, ten dollars for each day during which the offence continues.

Application.

9. An application for a permit—

- (a) may be made by the owner or occupier of land on which a well is, or is to be, situated ;
- (b) shall be made to the Minister in the prescribed form ;
- and
- (c) shall be accompanied by such information as may be prescribed.

Refusal or
revocation of
permit.

10. (1) The Minister, after referring the matter to the advisory committee and considering its recommendations, may refuse an application for a permit, or may, by notice in writing served upon the holder of a permit, revoke the permit, if, in his opinion, anything done in pursuance of the permit is, or would be, likely—

- (a) to cause contamination or deterioration of any underground water ;
- (b) to cause inequitable distribution of underground water ;
- (c) to cause undue loss or wastage of underground water ;
- or
- (d) to deplete unduly the supply of underground water.

(2) An application for a permit shall not be refused except upon a ground mentioned in subsection (1) of this section.

Term of
permit.

11. (1) A permit shall, subject to this Act, remain in force for a period of twelve months.

(2) The Minister may, if he thinks that proper cause exists for so doing, extend the duration of a permit.

Terms and
conditions of
permits.

12. (1) The Minister may grant a permit subject to any terms and conditions (including terms and conditions as to the depth of a well, and terms and conditions restricting the amount of underground water that may be taken from a well) that he deems necessary for preventing the contamination, deterioration, inequitable distribution, loss, wastage or undue depletion of underground water.

(2) It shall be a condition of a permit granted for the drilling and construction of a well that the well shall be drilled in a position specified in the permit.

(3) A term or condition to which a permit is subject shall be endorsed on the permit.

(4) The Minister may, upon application by the holder of a permit, or in his own discretion, by endorsement upon the permit, vary or revoke any term or condition of a permit and impose such additional terms and conditions upon the holder of the permit as he thinks fit.

(5) The holder of a permit shall, at the request of the Minister, the Director or an authorized person, produce the permit in order that an endorsement may be made thereupon.

Penalty : Two hundred dollars.

(6) A person shall not contravene or fail to comply with a term or condition of a permit.

Penalty : Five hundred dollars.

13. (1) A permit shall not be transferable except by the endorsement of the Minister upon the permit. Transfer of permit, etc.

(2) The holder of a permit shall, within fourteen days after any change in the ownership or occupation of land in respect of which the permit was issued, give notice in writing, personally or by post, to the Minister of that change in ownership or occupation.

Penalty : Two hundred dollars.

(3) Upon the transfer of a permit, the Minister may impose such further or other terms and conditions upon the transferee as the Minister thinks fit and endorses upon the permit.

14. (1) Where an application for a permit has been refused by the Minister, an application for a permit for the same, or substantially the same purpose, if made before the expiration of twelve months after the date of the application that has been refused, shall be void and of no effect. Application after refusal of application.

(2) The Minister shall decide whether the purpose for which a permit is sought is the same, or substantially the same as that for which a permit has previously been sought, and his decision shall be final.

15. (1) A permit shall not be required for repairs to a well that are urgently required to prevent contamination or deterioration of underground water, or to prevent loss or waste of underground water. Emergency repairs.

(2) Where any such repairs are carried out to a well within a defined area, the occupier of the land on which the well is situated shall, forthwith after the repairs are carried out, give notice in writing thereof personally or by post to the Minister.

Penalty : Two hundred dollars.

Duty of permit
holder.

16. Where a permit is granted to permit the execution of any operations in connection with a well, the holder of the permit shall ensure that the operations are executed—

(a) by the holder of an appropriate licence ;

and

(b) in conformity with the terms and conditions of the permit.

Penalty : Two hundred dollars.

Notices.

17. (1) If the Minister is satisfied that action by the owner or occupier of land within a defined area on which a well is situated is necessary or desirable for the purpose of preventing contamination, deterioration, inequitable distribution, loss, wastage or undue depletion of underground water, or for the purpose of preventing the use of contaminated underground water, the Minister, after referring the matter to the advisory committee and considering its recommendations, may serve upon that person a notice under this section.

(2) Any such notice may direct the person to whom it is addressed to do, within the time specified, and in accordance with directions contained, in the notice, any one or more of the following—

(a) to close and shut off the supply of underground water from a well ;

(b) to restrict the amount of underground water taken from a well, and to install a suitable meter to record the amount of water taken from the well ;

(c) to discontinue the use of the well ;

(d) to disconnect all pipes or drainage works discharging into, or in the vicinity of the well, and to take all necessary action to prevent any fluid, gas, effluent or other substance from gaining access to the well ;

(e) to close, or partly or entirely to block or backfill a well ;

(f) to treat any fluid, gas, effluent, waste or other substance in a manner specified in the notice before it is allowed access to the well ;

and

(g) to carry out such repairs or modifications to the well, or to carry out such action, or refrain from such action, in relation to the well, as the Minister deems necessary and specifies in the notice.

(3) A person to whom a notice is addressed under this section shall not fail to comply with a direction contained in the notice.

Penalty : Five hundred dollars.

(4) The Minister may, by subsequent notice served upon a person to whom a notice has been addressed under this section, extend the time within which action must be taken in pursuance of that notice or otherwise vary the terms of the notice.

18. The occupier of land within a defined area upon which a well is situated shall maintain the well in good repair and condition.

Duty to
maintain well.

Penalty : Two hundred dollars.

19. If in pursuance of a permit, a well may be drilled or deepened, the holder of the permit shall within thirty days after the termination of operations for that purpose conducted in pursuance of the permit (whether the operations have been completed or abandoned before completion), or if the Minister by notice in writing served upon the holder of the permit so requires, at such earlier date as may be specified in the notice, furnish the Minister with a return in the prescribed form containing such information as may be prescribed.

Return.

Penalty : Two hundred dollars.

20. (1) An artesian well shall be capped or equipped with valves so that the flow of water from the well can be regulated or stopped.

Artesian well
to be capped,
etc.

(2) An owner or occupier of land on which there is situated an artesian well that is not capped or equipped with valves as required by this section shall be guilty of an offence.

Penalty : Five hundred dollars.

(3) The provisions of this section shall not apply to or in relation to an artesian well from which the flow of water is not continuous unless the Minister by notice in writing served upon the owner of the land on which the well is situated directs that this section shall apply to and in relation to the well.

(4) The Minister shall not give a direction under subsection (3) of this section unless he is satisfied that the provisions of this section should, in the public interest, apply to and in relation to the well.

(5) This section shall not apply to or in relation to a well situated upon any lands within the meaning of the Pastoral Act, 1936-1968, unless the Minister, with the consent of the Minister of Lands, directs by notice in writing served on the owner of the land on which the well is situated, that this section shall apply to and in relation to the well.

(6) The Minister may by notice in writing served upon the owner or occupier of any land grant an exemption from the provisions of this section in relation to a well situated upon the land and while such an exemption (which may be limited in duration or revoked by a subsequent notice served upon the owner or occupier of the land) is in force, the provisions of this section shall not apply to or in relation to the well.

Discovery of
artesian waters.

21. (1) If in the course of operations for the construction or enlargement of a well, the well proves to be an artesian well, the person in charge of those operations shall immediately notify the Minister of the fact and furnish him with such information in relation thereto as the Minister may require.

(2) This section shall not apply to or in relation to a person who holds a licence under the Petroleum Act, 1940-1967.

Prohibition
against waste.

22. (1) A person who causes, allows or permits any underground water from a well to run to waste shall be guilty of an offence and liable to a penalty of two hundred dollars for the first day on which the offence is committed and a further penalty of ten dollars for each day during which the offence continues but it shall be a defence to a charge under this subsection that the water interfered or threatened to interfere with the execution or operation of underground works and the water was caused, allowed or permitted to run to waste only so far as was necessary to enable the works to be executed or operated and there was no other reasonably practicable method of disposing of the water.

(2) A person who extracts from any well underground water in excess of his reasonable requirements shall be guilty of an offence and liable to a penalty of two hundred dollars for the first day on which the offence is committed and to a further penalty of ten dollars for each day during which the offence continues.

Permit in
respect of
pastoral lands.

23. Where an application has been made under this Act for a permit in respect of a well situated or to be situated upon land held under a lease under the Pastoral Act, 1936-1968, the application shall not be granted unless the applicant satisfies the Minister that the Minister of Lands approves the granting of the application.

PART III.

PART III.

UNDERGROUND WATERS ADVISORY COMMITTEE.

24. (1) There shall be a committee entitled the "Underground Waters Advisory Committee". Establishment of committee.

(2) The members of the advisory committee shall be appointed by the Minister and shall consist of—

- (a) an officer of the Department of Health ;
- (b) an officer of the Department of Engineering and Water Supply ;
- (c) an officer of the Department of Mines ;
- (d) an officer of the Department of Agriculture ;
- (e) a private well drilling contractor ;
- (f) a person who, in the opinion of the Minister, is a proper person to represent the interests of any council or councils whose area or areas is or are affected by any question referred to the committee under this Part ;

and

- (g) such other persons, of whom one shall be a landowner, as the Minister thinks necessary.

(3) A person appointed to the advisory committee under paragraph (f) of subsection (2) of this section to represent the interests of a council or councils, shall hold office as a member of the committee only whilst the committee is investigating a question affecting the area or areas of the council or councils.

(4) Subject to this section the members of the advisory committee shall hold office during the pleasure of the Minister.

(5) If, for any reason, a member of the advisory committee is unable, or fails to act in his capacity as a member of the committee, the Minister may appoint a suitable person to be a deputy of that member, and such a person, while so appointed, shall be deemed to be a member of the committee and shall have all the powers, functions, duties and obligations of the member of whom he has been appointed a deputy.

25. (1) Five members of the advisory committee shall constitute a quorum of the committee and no business shall be transacted at a meeting of the committee unless a quorum is present. Quorum, etc.

(2) A decision carried by a majority of the votes cast at a meeting of the advisory committee shall be a decision of the committee.

(3) Each member of the advisory committee present at a meeting of the committee shall be entitled to one vote upon any question arising for determination by the committee.

Chairman, etc.

26. (1) The members of the advisory committee shall elect one of their number to be chairman.

(2) In the absence of the chairman from a meeting of the advisory committee, the members present shall elect one of their number to act as chairman at that meeting, and a person so elected shall have all the powers, functions, duties and obligations of the chairman at that meeting.

(3) The chairman shall preside at a meeting of the advisory committee and, in the event of an equality of votes, shall, in addition to a deliberative vote, have a second or casting vote.

Reference of
questions to
committee.

27. (1) The Minister may refer to the advisory committee any question relating to underground waters arising in connection with the administration of this Act.

(2) When any matter has been referred to the advisory committee, the committee shall investigate it, and submit a written report to the Minister containing its findings and recommendations.

(3) The Minister shall consider any recommendation of the advisory committee but shall not be bound thereby.

PART IV.

PART IV.

WELL DRILLERS.

28. (1) A person shall not—

Licences.

- (a) drill or construct a well to a depth deeper than the prescribed depth ;
- (b) deepen or enlarge a well so that it becomes deeper than the prescribed depth ;
- (c) deepen or enlarge a well that is already deeper than the prescribed depth ;
- (d) remove, replace, alter or repair the casing, lining or screen of a well that is deeper than the prescribed depth ;

or

- (e) plug, backfill or seal off a well that is deeper than the prescribed depth,

unless he holds a licence of an appropriate kind, or is acting under the personal supervision of a person holding such a licence.

Penalty : Five hundred dollars.

(2) This section shall apply to and in relation to persons employed by the Crown.

29. (1) An application for a licence shall be made in the prescribed form and shall contain such information as may be prescribed.

Application
for licence.

(2) Licences shall be of such types and shall contain such conditions as may be prescribed.

(3) The Minister may grant a licence of such prescribed type and subject to such prescribed conditions as he thinks fit.

(4) If the Minister refuses to grant an application for a licence, he shall forthwith give notice of his refusal to the applicant.

Qualification
for licence.

30. A person shall not be entitled to be granted a licence unless—

- (a) he has satisfied the Minister that he is qualified by knowledge and practical experience to carry out operations of the kind that may be carried out in pursuance of the licence ;
- (b) he has satisfied the Minister that he is in all respects a fit and proper person to be licensed ;
- (c) he has passed such examinations as may be prescribed ;
and
- (d) he has paid the prescribed fee.

Term of
licence.

31. (1) A licence shall, subject to this Act, remain in force for a period of three years from the day on which it was issued.

(2) The Minister may, upon application by the holder of a licence, renew the licence for a further period of three years, without further inquiry into the qualifications of that person to hold a licence.

Licence not
transferable.

32. A licence shall not be transferable.

Cancellation of
licence.

33. (1) If the Minister is satisfied that the holder of a licence is guilty of an offence under this Act, or has not fully complied with the conditions of the licence, or is not in all respects a fit and proper person to hold the licence, he may, by notice in writing served upon that person, cancel the licence.

(2) The holder of a licence that is cancelled under subsection (1) of this section, shall return the licence to the Minister.

Penalty : Two hundred dollars.

Operations in
pursuance of
licence.

34. (1) The holder of a licence shall not commence or carry out any operations in pursuance of the licence upon any land, unless the owner or occupier of the land holds a valid permit for the proposed operations.

Penalty : Five hundred dollars.

(2) The holder of a licence shall carry out operations in pursuance of the licence in accordance with the terms and conditions of the permit held by the owner or occupier of the land upon which the operations are carried out.

Penalty : Five hundred dollars.

35. (1) There shall be a committee entitled the "Well Drillers' Examination Committee". Establishment of committee.

(2) The members of the examination committee shall be appointed by the Minister and—

(a) two of them, of whom the Minister shall appoint one to be chairman, shall be officers of the Department of Mines, at least one being an officer of the Drilling Branch of that Department ;

(b) one of them shall be a private well drilling contractor ;
and

(c) the remaining member or members shall consist of such person or persons (not exceeding two in number), being persons experienced in the drilling and construction of wells and not being persons employed in the Public Service of the State, as the Minister thinks necessary.

(3) The members of the examination committee shall hold office during the pleasure of the Minister.

(4) If for any reason a member of the examination committee is unable, or fails, to act in his capacity as a member of the committee, the Minister may appoint a suitable person to be a deputy of that member, and such a person, while so appointed shall be deemed to be a member of the committee and shall have all the powers, functions, duties and obligations of the member of whom he has been appointed a deputy.

36. (1) Three members of the examination committee (at least one of whom shall be an officer of the Department of Mines and at least one of whom shall be a person not being an officer of that Department) shall constitute a quorum of the committee and no business shall be transacted at a meeting of the committee unless a quorum is present. Quorum, etc.

(2) A decision carried by a majority of the votes cast at a meeting of the examination committee shall be a decision of the committee.

(3) Each member of the examination committee present at a meeting of the committee shall be entitled to one vote upon any question arising for determination by the committee.

37. (1) In the absence of the chairman, or a person appointed a deputy of the chairman, from a meeting of the examination committee, the members present shall elect one of their number Chairman, etc.

to act as chairman at that meeting, and a person so elected shall have all the powers, functions, duties and obligations of the chairman at that meeting.

(2) The chairman shall preside at a meeting of the examination committee and, in the event of an equality of votes shall, in addition to a deliberative vote have a second or casting vote.

Reference to
committee.

38. (1) The Minister shall refer to the examination committee all applications for licences and may refer to the committee any question relating to the administration of this Part.

(2) Where any application or question is referred to the examination committee, it shall investigate the application or question and submit a report in writing to the Minister containing its findings and recommendations.

Committee to
report on
plant, etc.

39. (1) The examination committee shall, upon receipt of a request in writing of the Minister, report to him on the suitability of any machinery, plant and equipment to be used in the course of operations conducted in pursuance of a licence in a defined area.

(2) The Minister may, by notice in writing served upon the holder of a licence, require him not to use or operate any machinery, plant or equipment, specified in the notice, in a defined area.

(3) A person upon whom a notice has been served under subsection (2) of this section, shall not use or operate any machinery, plant or equipment specified in the notice, in a defined area.

Penalty : Five hundred dollars.

PART V.

PART V.

APPEALS.

40. (1) There shall be a board entitled the "Underground Waters Appeal Board". The appeal board.

(2) The appeal board shall consist of six members appointed by the Governor of whom—

- (a) one, who shall be the chairman of the board, shall be a legal practitioner of not less than seven years' standing ;
- (b) one shall be a person who is, in the opinion of the Governor, suitably qualified in engineering ;
- (c) one shall be a person who is, in the opinion of the Governor, suitably qualified in geology or geophysics;
- (d) one, who shall be entitled to sit only upon appeals against decisions or directions of the Minister under Part II of this Act, shall be a land holder who is, in the opinion of the Governor, suitably qualified and experienced in agricultural matters ;
- (e) one, who shall be entitled to sit only upon appeals against decisions of the Minister under Part IV of this Act, shall be a person experienced in well drilling ;

and

- (f) one, who shall be entitled to sit only upon appeals that involve, or are, in the opinion of the chairman, likely to involve, some question of bacteriological contamination of underground water, shall be a legally qualified medical practitioner.

(3) A person who is employed in the Public Service of the State, or is a member of the advisory committee shall not be a member of the appeal board.

(4) The chairman shall, in relation to each appeal, determine which members of the board are entitled to sit upon the appeal, and his decision shall be final.

41. (1) A member of the appeal board shall be appointed for a term of three years, and upon the expiration of his term of appointment, shall be eligible for re-appointment. Terms of appointment.

(2) The Governor may, by notice in writing served upon a member of the board, remove him from office for mental or physical incapacity to perform his duties, neglect of duty, or conduct showing him to be unfit to remain a member of the board.

(3) The office of a member of the board shall become vacant if—

- (a) he dies ;
- (b) his term of office expires ;
- (c) he resigns by written notice addressed to the Minister ;
- (d) he is removed from office by the Governor pursuant to subsection (2) of this section ;

or

- (e) he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, or compounds with his creditors for less than one hundred cents in the dollar.

(4) Upon the occurrence of a vacancy in the office of a member of the appeal board, a person eligible for appointment shall, in accordance with this Act, be appointed to fill the vacancy.

Procedure of
board.

42. (1) The chairman of the appeal board shall preside at every sitting of the board at which he is present.

(2) A member of the appeal board shall be disqualified from sitting at the hearing of an appeal by any proprietary, financial or personal interest in the decision or direction subject to appeal, and any member so disqualified shall not sit at that hearing, or participate in the deliberations or decision of the board upon that appeal.

(3) Where any member of the board is unable, or fails, for any reason, to sit at the hearing of an appeal, or is disqualified under subsection (2) of this section from sitting at such a hearing, the Governor may appoint a suitable person to be a deputy of that person, and such a person, while so acting, shall be deemed to be a member of the board, and, if so appointed to be deputy of the chairman, shall be deemed to be the chairman.

(4) Three members of the board shall constitute a quorum of the board, and no business shall be transacted at a sitting of the board unless a quorum is present.

(5) On any matter arising at a sitting of the board—

- (a) a decision concurred in by a majority of the members present at that sitting shall be the decision of the board ;

or

- (b) if the members are equally divided in opinion, a decision concurred in by the chairman, shall be the decision of the board.

(6) An act or proceeding of the board shall not be invalid by reason only of a vacancy in its membership and, notwithstanding the subsequent discovery of a defect in the appointment of a member, any such act or proceeding shall be as valid and effectual as if the member had been duly appointed.

(7) No liability shall attach to any member of the board for any act or omission by him or by the board in good faith and in the exercise or purported exercise of his or its powers or functions, or in the discharge or purported discharge of his or its duties under this Act.

(8) Subject to this Act, the business of the board shall be conducted in such manner as the board may determine.

43. The members of the appeal board shall be entitled to receive such remuneration, allowances and expenses as may be determined by the Governor. Remuneration, etc.

44. (1) For the purposes of this Part the appeal board may— Powers of board.

- (a) by summons under the hand of the chairman or a member require any person (except an officer of the Department of Mines, a party to the appeal or his servants or agents) to attend before the board ;
 - (b) require any person (except an officer of the Department of Mines, a party to the appeal or his servants or agents) to give oral or written answers to any questions relating to any matters before the board ;
 - (c) by summons under the hand of the chairman or a member require any person (except an officer of the Department of Mines, a party to the appeal, or his servants or agents) to produce any documents in his possession or power relating to any matter before the board ;
 - (d) examine witnesses upon oath or affirmation which may be administered by the chairman, a member, or the secretary, of the board ;
- and
- (e) require any information given to the board to be verified by statutory declaration.

(2) If a person—

- (a) who has been duly served with a summons by which he has lawfully been required to attend before the board, or to produce any document, under this section neglects or fails to attend, or to produce the document, in obedience to the summons ;

- (b) wilfully insults the board or any member thereof;
- (c) misbehaves himself before the board or interrupts the proceedings of the board;
- or
- (d) being called or examined as a witness before the board, refuses to be sworn or to affirm, or refuses to answer any question that he would be compellable to answer in a court of law,

he shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

Appeals.

45. (1) An appeal to the appeal board shall lie—

- (a) against the refusal of an application for a permit or the revocation of a permit under section 10 of this Act;
 - (b) against any term or condition subject to which a permit is granted under section 12 of this Act, and against the variation, revocation of or addition to any of the terms or conditions of such a permit;
 - (c) against a direction contained in a notice under section 17 of this Act;
- and
- (d) against the refusal or the cancellation of a licence under Part IV of this Act.

(2) Except as provided in subsection (1) of this section, there shall be no right of appeal to the appeal board.

(3) Where the Minister makes any decision in connection with a permit or licence that is subject to appeal, he shall give to the applicant for, or holder of, the permit or licence affected by his decision notice in writing thereof.

**Institution
of appeal.**

46. (1) An appeal must be instituted by written notice of appeal addressed to the Minister and served upon him not more than six weeks after the appellant is served with the notice of, or notice containing, the decision or direction appealed against.

(2) A notice of appeal must state the name of the appellant, the address at which notices may be served upon him, and short particulars of the decision or direction appealed against and the grounds of appeal.

(3) Forthwith after the receipt of a notice of appeal (whether complying with subsection (2) of this section or not) the Minister shall send a copy to the appeal board.

47. (1) When an appeal has been duly instituted, the appeal board shall fix a time and place for the hearing of the appeal, and shall give to the appellant and the Minister at least seven days' notice of the time and place so fixed. Hearing.

(2) At the hearing, the board shall give the appellant and the Minister an opportunity of submitting any relevant information, evidence and arguments.

(3) A party to an appeal may be represented at the hearing by counsel or other representative.

48. Upon the hearing of an appeal, the appeal board may—

(a) adjourn the proceedings from time to time ;

(b) adopt such practice and procedure as it thinks just and expedient ;

(c) amend, or give leave to amend, the notice of appeal or any other formal documents ;

and

(d) affirm, vary or quash the decision or direction appealed against.

Powers of board in connection with disposal of appeal.

49. (1) Forthwith after deciding an appeal, the appeal board shall give written notice of its decision to the appellant and to the Minister.

Notice of decision.

(2) A member of the appeal board may, and upon the request of either party to the appeal, shall, give reasons in writing for his decision upon an appeal.

50. (1) If the appeal board is satisfied that an appeal is frivolous, or was instituted for the purpose of delaying the operation of a decision or direction and not for the purposes of contesting a decision or direction on its merits, the appeal board may order the appellant to pay a sum of money to the Minister as costs of the appeal.

Costs.

(2) The Minister may recover any such sum of money as a debt by action brought in the name of the "Minister of Mines" in any court of competent jurisdiction.

(3) Any money recovered by action under this section shall be paid into the general revenue of the State.

Effect of
appeal on
directions of
Minister.

51. (1) After a notice of appeal against a direction to do any act has been duly given, that direction shall be inoperative until the appeal board gives its decision on appeal.

(2) Where a decision or direction fixes a period of specified duration within which anything must be done and the appeal board does not vary that period, the period shall commence on the day on which the appellant receives notice of the appeal board's decision.

PART VI.

PART VI.

GENERAL PROVISIONS.

52. (1) The Minister, the Director or an authorized person may, at any reasonable time, enter and remain upon any land or premises for the purpose of making any inspection, and may put such questions to any person upon the land or premises for the purpose of obtaining any information, that he deems necessary or expedient for the administration or enforcement of this Act. Powers of entry, etc.

(2) An authorized person may carry out such operations to determine the condition of a well as the Minister may authorize and specifies in a notice served upon the owner or occupier of the land on which the well is situated.

(3) A person shall not hinder or obstruct the Minister, the Director or an authorized person in making any inspection or carrying out any operations under this section.

Penalty : Two hundred dollars.

(4) A person shall not fail truthfully to answer, to the best of his knowledge, information and belief, any question lawfully put to him under subsection (1) of this section.

Penalty : Two hundred dollars.

53. A person who (whether orally or in writing) makes a false statement to the Minister, the Director, an authorized person or a member of the police force in connection with any matter arising under this Act, shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars but it shall be a defence to a charge under this section that the person charged, at the time of making the statement, believed upon reasonable grounds that the statement was true. False statements.

54. A notice to be served upon or given to any person by the Minister under this Act, may be served upon or given to that person— Service of notices.

(a) personally or by post ;

(b) by leaving it for him at his last or usual place of abode or business with some person apparently an inmate thereof, or employed thereat, and apparently not less than sixteen years of age ;

or

- (c) where the person is a body corporate, by serving or giving the notice upon or to the chairman, president, manager, secretary or other officer of the body corporate in accordance with paragraph (a) or paragraph (b) of this section.

Summary
procedure.

55. (1) Proceedings for offences against this Act shall be disposed of summarily.

(2) Proceedings for an offence against this Act shall not be commenced without the consent in writing of the Minister.

(3) An apparently genuine document purporting to record the consent of the Minister to proceedings for an offence against this Act and to be signed by him shall be admissible in evidence, and shall, in the absence of evidence to the contrary, be taken as proof of his consent to the proceedings.

Orders by
court.

56. (1) If in the course of proceedings for the hearing and determination of a complaint for an offence against this Act, it appears to the court that the person charged has failed to comply with any provision of this Act, the court may order that person to comply with that provision within the time specified in the order.

(2) If pursuant to subsection (1) of this section a person has been ordered to conduct any operations in connection with a well, and that person fails to comply with that order, the Director or an authorized person may, with or without servants or agents, enter upon any land and conduct those operations and the Minister may recover the cost of those operations in any court of competent jurisdiction.

(3) If a person convicted of an offence under this Act is the holder of a permit or licence, the court may, in addition to any other penalty that it may impose, by order cancel the permit or licence.

(4) A person who in any way contravenes a provision of this Act, whether by act or omission, shall, whether the contravention is declared to be an offence or not, be guilty of an offence and where no penalty is specifically prescribed, liable to a penalty of two hundred dollars for the first day on which the offence occurs and a further penalty of ten dollars for each day during which the offence continues.

57. (1) In any legal proceedings under this Act, an allegation in a complaint or pleading— Evidence.

- (a) that a person named therein is an authorized person;
 - (b) that a person named therein is the owner or occupier of land specified therein ;
 - (c) that a notice mentioned therein has been duly served upon or given to a person under this Act on a day specified therein ;
- or
- (d) that a person named therein is, or is not, the holder of a permit or licence,

shall be deemed to have been proved in the absence of proof to the contrary.

(2) An apparently genuine document purporting to be, or to set out the contents of, a permit, licence, or notice under this Act, and purporting to be certified by the Director, shall be deemed to be, or to set out the contents of the permit, licence or notice in the absence of proof to the contrary.

58. An owner of land who is not in occupation of the land and is required under this Act to carry out any operations in connection with a well upon the land may, after giving seven days' notice to the occupier of the land, enter upon the land, with or without servants and agents, and carry out the operations.

Owner may enter land for purposes of this Act.

59. The Minister, upon proof to his satisfaction that a permit or licence has been lost or destroyed, and on payment of the prescribed fee, may issue to the holder of the permit or licence a duplicate in lieu of that permit or licence.

Duplicate.

60. (1) Nothing in the Pastoral Act, 1936-1968, shall affect the obligation of any person to comply with this Act.

Statutory obligations unaffected by this Act.

(2) Nothing in this Act shall affect the obligation of any person to comply with the provisions of the Health Act, 1936-1968, and the Pastoral Act, 1936-1968.

Regulations.

61. The Governor may make all such regulations as are contemplated by this Act, or as he deems necessary or expedient for the purposes of this Act, and, without limiting the generality of the foregoing, regulations—

- (a) constituting any specified area a defined area for the purposes of this Act ;
- (b) altering or abolishing any defined area ;
- (c) prescribing depths for the purposes of this Act (which prescribed depths may vary according to whether they are prescribed for the purposes of Part II or Part IV of this Act, and according to the defined area, or other area, in relation to which they may be prescribed) ;
- (d) providing that the provisions of this Act shall not apply to any well of less than the prescribed depth in any specified area ;
- (e) prescribing the records and the samples of strata and water to be kept by a person engaged in operations for the drilling or construction of a well and providing for those records and samples to be forwarded to the Minister, or to be inspected by an authorized person ;

and

- (f) prescribing the penalties (recoverable summarily), not exceeding one hundred dollars, for breach of, or non-compliance with, the regulations.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

J. W. HARRISON, Governor.