

WATER CONSERVATION ACT, 1936.

No. 2320 of 1936.

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

[Assented to 26th November, 1936.]

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.

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| <p>1. This Act may be cited as the “Water Conservation Act, 1936.”</p> | <p>Short title.</p> |
| <p>2. This Act shall come into operation on a day to be fixed by proclamation.</p> | <p>Commencement.</p> |
| <p>3. This Act is a consolidation of the Acts mentioned in the schedule, and the said Acts are hereby repealed.</p> | <p>Consolidation and repeal.</p> |
| <p>4. The provisions of this Act are arranged as follows :—</p> <p style="margin-left: 20px;">PART I.—Preliminary.</p> <p style="margin-left: 20px;">PART II.—Powers of the Governor and the Commissioner.</p> <p style="margin-left: 20px;">PART III.—Assessments, rates, and charges.</p> <p style="margin-left: 20px;">PART IV.—District water supplies.</p> <p style="margin-left: 20px;">PART V.—Miscellaneous.</p> | <p>Arrangement.</p> |
| <p>5. In this Act, unless the context or subject matter otherwise requires—</p> <p style="margin-left: 40px;">“Commissioner” means the Commissioner of Water Conservation :</p> | <p>Interpretation.</p> <p>392, 1886, s. 3.</p> <p>736, 1900, s. 6.</p> <p>2293, 1936, s. 4.</p> |

- “lake” means any lagoon, swamp, marsh, lake, or other collection of still water, whether the supply of still water is permanent or temporary, and whether it is found above or beneath the surface of the ground :
- “land” includes buildings, messuages, tenements, and hereditaments :
- “owner” includes the person for the time being receiving, or entitled to receive, the rents of any lands whether on his own account, or as agent, trustee, or attorney for any other person :
- “public notice” means notice by advertisement in the *Government Gazette* :
- “ratable property” means all lands within a water district (including lands belonging to the Crown), except—
- (a) lands belonging to the Crown, and not lawfully contracted to be granted to any person in fee simple or leased :
 - (b) lands used exclusively by the Government for any public purpose :
 - (c) lands which cannot on account of elevation, situation, or other circumstance receive any benefit from waterworks established in the water district in which they are situated, or the value of which is not increased by reason of the waterworks :
 - (d) any public hospital, mental hospital, benevolent institution, or buildings used exclusively for charitable purposes :
 - (e) any church, chapel, or buildings used exclusively for divine worship :
- “rate” includes every meter rent, fee, or other charge payable, and every reward or payment to be made, whether under agreement or otherwise, to the Commissioner for a supply of water from any waterworks, or for any purpose whatever :
- “river” means any stream of water, whether perennial or intermittent, flowing in a natural bed or course, either above or beneath the surface of the ground :
- “town lands” means any lands laid out as a town or township by the Government, and any other lands laid out or subdivided into allotments, of which

laying-out or subdivision plans are deposited in the General Registry Office or Lands Titles Registration Office :

“ water district ” means any water district proclaimed under this Act or any Act repealed by this Act :

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

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

PART II.

PART II.

POWERS OF THE GOVERNOR AND THE COMMISSIONER.

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

Power to proclaim water districts.

392, 1886, s. 4.
463, 1889, s. 4.
1197, 1915, s. 3.
2293, 1936, s. 4.

- (a) constitute any portion of the State a water district for the purposes of this Act ;
- (b) define the boundaries of, and give a name or number to, every water district ;
- (c) constitute any portion of any water district, or of two or more water districts, a new water district ;
- (d) alter the boundaries of any water district, either by separating part thereof from, and declaring that it shall no longer form part of, a water district, or

s. 6. At 8th November, 1937, the following proclamations were in force with respect to the following water districts:—Kimba water district: *Gazette* 20th January, 1927, p. 121; 23rd October, 1930, p. 834. Moseley water district: *Gazette* 8th August, 1929, p. 330. Chilpuddie water district: *Gazette* 6th February, 1930, p. 226; 13th November, 1930, p. 986.

by adding to a water district other land, whether theretofore included or not within the limits of a water district ;

(e) abolish any water district.

Commissioner.
463, 1889, s. 3.

7. The Commissioner of Public Works for the time being shall be the Commissioner for Water Conservation.

Commissioner
to be a body
corporate.
392, 1886,
s. 140.

8. The Commissioner and his successors in office shall be a body corporate, under the name of "The Commissioner of Water Conservation," and by that name shall have perpetual succession and a seal, and shall sue and be sued, implead and be impleaded, and may accept, purchase, hold, enjoy, sell, and dispose of any real and personal property of every kind for the purposes of this Act.

General
powers of
Commissioner
392, 1886,
s. 62.
2293, 1936, s. 4
Cf. U.K.
10 & 11 Vict.
c. 17, s. 12.

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

- I. With or without horses, cattle, or carriages, enter upon and take the levels of any land, and set out such parts as may be required for the purposes of the Commissioner, and dig, break up, and trench the soil of any such land, and remove or use all earth, stones, minerals, trees, and other things dug or obtained out of or from the same :
- II. Enter upon, take, and hold, either temporarily or permanently, possession of, and appropriate such land as the Commissioner deems necessary or desirable for the construction, maintenance, or improvement of any waterworks, or for securing or increasing the supply, or improving the quality of water to be supplied :
- III. Sink such wells and shafts, and make, maintain, alter, or discontinue such waterworks, and erect and maintain such buildings upon any land, or in, upon, or across any lake, river, or watercourse required by the Commissioner, as the Commissioner deems proper for supplying any water district with water :

- iv. Divert and impound the water from any lake, river, or watercourse as the Commissioner deems fit :
- v. Divert or alter, as well temporarily as permanently, any part of the course of any river or watercourse, or (temporarily only) any road, street, or way, in order the better to carry out the duties or exercise the powers of the Commissioner :
- vi. Construct waterworks for irrigation and other purposes :
- vii. Cut drains and make channels to deliver water into or take water out of, and embank, widen, or deepen, any lake, river, or watercourse :
- viii. Enter at any time upon any lands, roads, streets, or ways, for the purpose of constructing, repairing, altering, cutting off, or removing any waterworks under the control of the Commissioner : Provided that the Commissioner shall not have power to enter upon any enclosed land of any person within fifty yards of his dwelling-house without the written consent of the owner.

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

Powers outside water districts.
392, 1886, s. 63.
2293, 1936, s. 4.

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

By-laws.
392, 1886, s. 64.
2293, 1936, s. 4.
Cf. U.K.
15 & 16 Vict.
c. 84, s. 26.

- i. The leasing, care, or control of any waterworks :
- ii. The imposing, levying, and collecting rates and charges within any water district :
- iii. The measures to be taken to prevent and remedy the waste, undue consumption, obstruction, and contamination of water contained or supplied from any part of the waterworks, and to regulate the days and hours when water can be obtained for irrigation on any land, and the quantity to be allowed :
- iv. The protection of every part of the waterworks from trespass or injury :

- v. The terms and conditions upon which the Commissioner will supply water to ratepayers, travellers, and travelling stock within any water district, or at any place beyond any water district, and the scale of charges for supply of water by measure or otherwise, and the providing and regulating the construction, disposition, and inspection of meters and other fittings :
- vi. Granting licences to competent plumbers, and cancelling such licences, and also for preventing any other than licensed plumbers from fixing, altering, or repairing any pipes, fittings, or meters connected with the pipes or works under the control of the Commissioner :
- vii. For compelling persons using water supplied by the Commissioner to keep their pipes, fittings, and other appliances in proper repair ; for preventing any alteration of, or interference with any such pipes or fittings without the consent of or notice to the Commissioner ; for repairing any such pipes, fittings, and appliances so as to prevent waste of water, and for recovering the cost of any such repairs :
- viii. For preventing unauthorised persons using, directly or indirectly, water supplied by the Commissioner :
- ix. For regulating the number, form, material, dimensions, construction, and arrangement of pipes, fittings, and other works supplying water from the pipes of the Commissioner to adjacent premises ; the time of executing and the notices to be given for any such works ; the superintendence thereof ; the making good and replacing ground which may be displaced in the course of any such works ; and for inspecting at reasonable times, pipes and fittings, whether situate within any buildings or otherwise :
- x. For imposing penalties not exceeding fifty pounds for any breach of any by-law :
- xi. Generally for more effectually exercising the powers conferred upon the Commissioner by this Act, and for carrying out the provisions of the same in every particular.

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

13. (1) The Governor may from time to time, by proclamation, order that any lakes, rivers, and watercourses shall be under the exclusive control and management of the Commissioner.

Control of lakes, &c.
392, 1886,
s. 141.
2293, 1936,
s. 4.

(2) Thereupon the Commissioner shall, from and after the publication of the proclamation, have the exclusive control and management of all lakes, rivers, and watercourses specified in the proclamation.

(3) Any such proclamation may from time to time be modified or revoked by the Governor by proclamation.

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

Power to vest Crown lands in Commissioner.
392, 1886,
s. 142.

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

Power to place public water reserves etc., under control of Commissioner.
392, 1886,
s. 143.
2293, 1936, s. 4.

16. (1) The Commissioner may sell any waterworks vested in him, or under his control, or any land vested in him at or for such prices and upon such terms and conditions as he may think fit.

Power to sell waterworks.
392, 1886,
s. 144.
2293, 1936, s. 4.

(2) The Governor may on behalf of His Majesty, execute all necessary assurances for vesting the waterworks or land in the purchaser.

17. (1) The Commissioner may grant leases for any terms not exceeding twenty-one years of any lands, reserves, waterworks, powers, or premises vested in him or under his control, and may accept surrenders of any such leases.

Power to lease and surrender.
463, 1889, s. 18.
2293, 1936, s. 4.

(2) Any such leases and surrenders may be granted and accepted on such terms as he may think fit.

18. The Commissioner may construct waterworks and erect standpipes at any place within or beyond the limits of any water district, and may from any such works sell water

Powers to erect standpipes and sell water.
392, 1886,
s. 153.

by measure, or otherwise, and may lease the same to any persons upon such terms and conditions as he thinks fit.

Power to make agreement to supply water by measure.
392, 1886,
s. 154.

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

Agreement to bind land.
392, 1886,
s. 155.

20. (1) Every agreement entered into with the Commissioner for the supply of water to any particular land shall be binding upon all subsequent owners and occupiers of the same land as if they were parties thereto.

(2) The land to which water is supplied under any such agreement shall be charged with the moneys from time to time due to the Commissioner for water so supplied, and any such moneys shall be deemed to be and shall be recoverable in the same manner as rates declared under this Act.

Commissioner may delegate his powers.
392, 1886,
s. 156.

21. (1) The Commissioner may authorise such person or persons as he thinks proper to do all or any of the acts, matters, and things which the Commissioner is by this Act empowered or required to do.

(2) Every person so authorised shall have and enjoy all such and the like powers as are hereby conferred on the Commissioner, to enable him to do such acts, matters, and things respectively.

(3) All such acts, matters, and things, when done under such authority, shall be as valid and effectual as if they had been done by the Commissioner.

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

PART III.

PART III.

ASSESSMENTS, RATES, AND CHARGES.

22. (1) The Commissioner shall, whenever he considers it necessary for any of the purposes of this Act, make, or cause to be made, an assessment of all ratable property within any water district.

Assessments and principles on which same are to be made.
392, 1886,
s. 89.
2293, 1936, s. 4.

(2) All such assessments shall be made according to the principles following:—

- I. As to all lands built upon, or occupied with any land built upon, wherever situate, and as to all other lands not being town lands, according to the full estimated annual rent (clear of all outgoings) at which the same would let for a term of fourteen years :
- II. As to all town lands unbuilt upon, according to a percentage of five per centum on the value of the freehold :
- III. As to all town lands comprising a block of not less than twenty acres, not divided by roads, and unused, or used only for pastoral or agricultural purposes, according to a percentage of two and a half per centum on the value of the freehold.

23. The assessment shall be written in a book or other record, showing—

Form of assessment.
2293, 1936, s. 4.

- (a) the names of the owners and occupiers of the ratable property assessed ;
- (b) the estimated annual rent of the ratable property, or as the case may require, the freehold value of the property ; and
- (c) a succinct description of the ratable property.

24. When any such assessment is made, the assessment-book, or a true copy thereof, shall be deposited in the office of the Commissioner, and shall be open free of charge to inspection of all persons interested between the hours of eleven o'clock in the forenoon and three o'clock in the afternoon on every day except Sundays, Saturdays, and public holidays.

Deposit of assessment.
2293, 1936, s. 4.

25. The Commissioner in making an assessment may, in his discretion—

Power to use any previous assessment.

- (a) instead of preparing or causing to be prepared a fresh assessment, use, with such alterations and additions (if any) as may appear necessary, any previous assessment duly made according to the principles aforesaid :

392, 1886
s. 92.
2293, 1936,
s. 4.

(b) in any case where any municipal council or district council exists within the water district, use the assessment of the municipal council or district council, with any necessary modifications, as the assessment for the portion or portions of the water district included in the area of the municipal council or district council.

(2) The assessment so used, with such alterations, additions, and modifications (if any) as aforesaid, upon being adopted by the Commissioner, and upon a memorandum being made in the assessment-book, and on the copy thereof, stating the adoption and setting forth the alterations, additions and modifications (if any), and being signed and dated by the Commissioner, shall for all purposes be deemed to be an assessment duly made under the requirements of this Act.

26. Until any assessment is superseded by an assessment subsequently made, the first-mentioned assessment shall be deemed to be the assessment for the time being in force.

27. If it at any time appears to the Commissioner—

- (a) that any property which ought to be included in the assessment-book has been omitted therefrom ; or
- (b) that any error of name or description has been made therein ; or
- (c) that any other matter purely of error needs rectification in the assessment-book,

the Commissioner may correct the assessment-book, and the copy thereof, by including therein all necessary particulars respecting the property, and the assessed value thereof, or by making such other correction in the assessment-book and copy as may be requisite : Provided that, except on appeals as herein-after provided for, the assessed value of any ratable property as set forth in the assessment-book shall not be altered after the giving of any public or special notice of the assessment as hereinafter provided.

28. Every correction in the assessment-book, and the copy thereof, under the provisions of section 27, shall be signed by the Commissioner, and dated with the date of the making thereof.

29. (1) Notice of the making of every assessment, and of every alteration or correction thereof or addition thereto, and of the places where the assessment-book or the copy thereof may be inspected, shall forthwith be given by public

Assessment to be in force till superseded. 392, 1886, s. 93.

Power to correct assessment-book. 392, 1886, s. 94. 2293, 1936, s. 4.

Corrections to be signed and dated. 392, 1886, s. 96. 2293, 1936, s. 4.

Notice of assessment and alterations. 392, 1886, s. 97. 2293, 1936, s. 4.

notice, and also by delivering or posting within ten days after the making of the assessment, alteration, correction, or addition, as the case may be, a special notice thereof in writing, addressed to every person appearing in the assessment-book as the occupier of the ratable property concerned, or in case no person appears therein as occupier then to every person appearing therein as owner of the property. If no person appears therein as occupier or owner, then the special notice shall be unnecessary, and public notice of the assessment shall be sufficient.

(2) Where a previous assessment is adopted as aforesaid special notice need not be given to the occupiers or owners of any property in respect whereof the Commissioner in adopting the previous assessment has not made any alteration in or addition to the assessment-book.

30. Any person may appeal against any assessment, or any alteration thereof or addition thereto, on any of the grounds following, that is to say :—

Appeals
against
assessments.
392, 1886, s. 98.

- I. That he is not the owner or occupier of the whole or any, or some particular part of the ratable property for which his name appears as owner or occupier :
- II. That the ratable property for which he appears to be the owner or occupier is assessed beyond its full and fair value :
- III. That any ratable property, or the owner or occupier of any ratable property is omitted from the assessment :
- IV. That any ratable property is assessed below its full and fair value :
- v. That any property included in the assessment is not ratable.

31. Appeals as aforesaid shall be made to the local court of full jurisdiction nearest to the water district.

Appeals
392, 1886, s. 99.
2293, 1936, s. 4.

32. (1) Every appeal shall be commenced by notice in writing within twenty-one days after the giving of public notice of the assessment or the correction, or alteration thereof or addition thereto, as the case may be.

Method of
appealing.
392, 1886,
s. 100.
2293, 1936, s. 4.

(2) The notice shall be given to the clerk of the local court, and also to the Commissioner.

(3) Notice shall also be served six days before the hearing of the appeal upon the person (if any) whose name it is proposed to insert in the assessment, or whose property is alleged to be omitted or assessed below its full and fair value.

(4) Appeals shall be heard at the sittings of the local court of full jurisdiction next after twenty-seven days from the giving of the public notice of the assessment, correction, alteration, or addition, as the case may be.

Production of assessment-book.

392, 1886, s. 101.
2293, 1936, s. 4.

33. (1) On the hearing of any appeal the Commissioner shall produce the assessment-book containing the assessment or alteration of or addition to the assessment appealed against.

(2) The local court, upon examining the parties and witnesses on oath, on the day of hearing, or at some adjournment of the hearing, may make such order as shall be just, and shall cause any alteration occasioned by the decision of the appeal to be made in the assessment-book by the clerk of the local court.

Costs of appeal.

392, 1886, s. 103.
2293, 1936, s. 4.

34. (1) On the hearing of any appeal to the local court, or at any adjournment of the hearing, the local court may make such order as the court may think fit for the payment of the costs by or to the Commissioner, to or by the appellant, or by or to any respondent other than the Commissioner, to or by the appellant.

(2) The payment of any such costs may be enforced by a warrant of execution under the hand of the clerk of the local court and the seal of the court against the goods and chattels of the person making default in payment of the costs so ordered as aforesaid, in the same manner as judgments of local courts are enforceable, the remedy hereby given to be in addition to any other remedy legally available for the recovery of the costs.

Magistrate or justice not disqualified.

392, 1886, s. 104.

35. No special magistrate or justice shall be disqualified from adjudicating on the hearing of any appeal to a local court as aforesaid, by reason only of his being a ratepayer in the water district the assessment for which is appealed against.

Power to declare rates.

392, 1886, s. 106.
736, 1900, s. 5.
2293, 1936, s. 4.

36. (1) The Commissioner may, at any time, and from time to time after ten days have elapsed from the giving of public notice of an assessment in any water district, declare a rate or rates for the general purposes of this Act on the ratable property, or on any part or parts of the ratable property included in the assessment.

(2) The Commissioner may, if he thinks fit, declare that the rates, or any of them, shall be payable only in certain part or parts (to be specified in the said or any subsequent notice) of the water district, or may declare that the rates shall be levied differentially in different parts of the water district.

(3) The maximum amount of rates so declared in respect of any particular property in a water district for any one year shall

not exceed two shillings and sixpence in the pound on the assessed annual value of the property.

(4) The Commissioner may in respect of any ratable property declare a minimum annual rate of one pound.

(5) Public notice shall be given by the Commissioner of the declaration of any rate.

37. All rates shall be payable in advance on the first day of July in every year.

Payment of rates.
392, 1886,
s. 119.
2293, 1936, s. 4.
Cf. U.K.
10 & 11 Vict.
c. 17, s. 70.

38. Any person appearing in the assessment-book of any water district as the owner of any ratable property, shall remain and continue liable for all rates in respect thereof, notwithstanding any sale, transfer, or conveyance thereof, unless before proceedings taken for the recovery of the rates due he gives notice in writing of the sale, transfer, or conveyance to the Commissioner.

Liability of original owner unless notice of sale given.
392, 1886,
s. 121.
2293, 1936, s. 4.
Cf. U.K.
10 & 11 Vict.
c. 17, s. 68.

39. (1) No person shall, in respect of any period and in respect of any land, be charged any sum for excess consumption of water unless there has been supplied, during that period and on or in respect of that land, more than the quantity of water calculated to the nearest thousand gallons (which quantity is hereinafter called "the rebate allowance") the cost of which, if charged for at the price in force for the time being, would be equal to the amount of the rates payable in respect of that period and that land; and, in addition to the rates, a person shall be chargeable only for water supplied in excess of the rebate allowance.

Payment for excess water.
1197, 1915, s. 5.

(2) The rebate allowance for the purpose of this section shall be calculated separately with respect to the lands supplied through any one service and meter; and the rebate allowance with respect to any other lands of which the same person is the owner or occupier shall not be taken into account for the purpose of any such calculation.

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

Power to charge fee for use of meter.
1197, 1915,
s. 11.
2293, 1936, s. 4.
Cf. U.K.
26 & 27 Vict.
c. 93, s. 14.
Cf. U.K.
11 & 12
Geo. 5
c. xciv., ss.
14 (1), 15.

41. (1) The Commissioner may, by extension of a main pipe or other work, provide a supply of water for any land either within or outside a water district, in pursuance of an

Water supply provided under agreement.
1197, 1915,
s. 13.
2293, 1936, s. 4.

agreement between the owner of the land and the Commissioner to pay to the Commissioner interest at a rate not exceeding five pounds per centum per annum on his proportion, as fixed by the Commissioner, of the cost of the extension or other work.

(2) The Commissioner may levy upon any land for which the Commissioner has provided a supply of water pursuant to subsection (1), an annual rate sufficient, in the opinion of the Commissioner, to produce the annual sum payable under an agreement entered into under the said subsection with respect to the land.

(3) Where the Commissioner has provided a supply of water in manner mentioned in subsection (1) for any land, and the supply is also available for any other land, but the owner of the last-mentioned land has not entered into an agreement with the Commissioner under that subsection, the owner shall nevertheless be deemed to have entered into such an agreement, and his land shall be ratable under subsection (2) accordingly.

Rate may be
declared on
acreage basis.
1561, 1923, s. 3.

42. (1) The Governor may, by proclamation, declare any water district or any portion of any water district within which this section shall apply, and may, by proclamation, declare one or more sources of water supply within the water district or portion of a water district to be the principal waterworks within the water district or a portion of a water district.

(2) The Governor may, by proclamation, declare any portion of the Tod River Water District constituted under the Tod River Waterworks Act, 1916, to be a water district within which this section shall apply: Provided that any such proclamation shall cease to apply to any lands within the said Tod River Water District so soon as a rate is declared upon the lands under the provisions of the Waterworks Act, 1932.

(3) The Governor may, by proclamation, revoke or vary any proclamation made pursuant to this section.

(4) After any such proclamation as first mentioned in subsection (1) has been made, the provisions of this Act with respect to the making of assessments and the declaring of rates shall, so far as superseded by this section, cease to apply within the water district or portion of a water district in respect of which the proclamation has been made.

(5) A rate for the purposes of and pursuant to this Act may be declared and levied by the Commissioner on the ratable property within the water district or portion of a water district on the basis of the acreage of the ratable property.

(6) The rate shall not exceed the sum of one penny and one halfpenny per acre of the ratable property when the ratable property is distant less than one mile from a principal waterworks within the water district or portion of a water district, and one penny and one farthing per acre of the ratable property when the ratable property is distant one mile and less than two miles from any such waterworks, and one penny per acre of the ratable property when the ratable property is distant two miles and less than three miles from any such waterworks, and three-farthings per acre of the ratable property when the ratable property is distant three miles and less than four miles from any such waterworks, and one halfpenny per acre of the ratable property when the ratable property is distant four miles and less than five miles from any such waterworks, and one farthing per acre of the ratable property when the ratable property is distant five miles and not more than six miles from any such waterworks: Provided that the minimum amount chargeable by way of rates under this section in respect of any ratable property shall be ten shillings.

(7) No rate shall be declared or levied under this section on any ratable property distant more than six miles from a principal waterworks within a water district or portion of a water district.

(8) The rate may be declared and levied in a specified part or parts of the water district or portion of a water district only, and may be declared and levied differentially in specified parts of the water district or portion of a water district.

(9) Until any rate declared under this section is superseded by a rate subsequently declared, the first-mentioned rate shall continue and be the rate for the time being in force.

(10) Payment of any such rate may be remitted either wholly or in part by the Commissioner in writing.

(11) All the provisions of this Act relating to the declaration and giving of notice of rates and the levying and enforcement thereof shall apply, *mutatis mutandis*, and subject to this section, to all rates declared under this section.

43. Rates may be recovered by action in any court of competent jurisdiction, or in a summary manner, from any person liable to pay the same.

Recovery of rates.
392, 1886,
s. 122
Cf. U.K.
26 & 27 Vict.
c. 93, s. 21.

44. (1) If any rates are unpaid, the Commissioner may 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 rates, together with fees and expenses not exceeding the fees and expenses which a bailiff is entitled to charge in the case of an execution under the Local Courts Act, 1926, by distress and sale of the goods and chattels, wheresoever they

Power to distress for water rates in arrear.
1197, 1915,
s. 4.
2293, 1936, s. 4.

may be found, of the occupier, at the time when the warrant is executed, of the land with respect to which the rates are payable, or, if the rates are for water supplied under agreement, with respect to which water has been so supplied.

(2) In case there are not found on the land goods and chattels of the occupier sufficient to satisfy the distress, the rates, together with such fees and expenses as mentioned in subsection (1), or such part of the rates and fees and expenses as remains unpaid, shall be payable by the owner for the time being of the land, and shall be recoverable from him in manner provided by section 43, or by distress in manner provided by subsection (1).

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

Protection to tenants paying rates for which owners are liable.

392, 1886, s. 124.
2293, 1936, s. 4.
Cf. U.K. 10 & 11 Vict. c. 17, s. 73.

45. (1) When any owner, lessor, or landlord of any property assessed is, by contract or otherwise, liable to payment of any rates to be collected in respect thereof and the rates are required from and paid by any tenant in possession, then the tenant may set off the amount so paid against any rent due from him to the owner, lessor, or landlord, and any such payment shall be a discharge of rent to the amount paid.

(2) If the rates so paid exceed the rent due, the said person may either set off the excess against accruing rent, or recover the same by action as for money paid, and shall be entitled to recover the same with full costs as between solicitor and client.

(3) If the goods of any such tenant, after notice by the tenant to the owner, lessor, or landlord that the rates are demanded, are subjected to distress and sale for the satisfaction of the rates, and no rent at the time is due and payable, then he may sue the owner, lessor, or landlord for double the amount of the value of his goods so distrained and sold, and shall be entitled to recover the same with costs as aforesaid.

Apportionment of rates between landlord and tenant.

392, 1886, s. 125.

46. Any tenant who by deed or contract is liable to payment of rates in respect of any property during his term, and who pays such rates in respect thereof for a period prior to, or extending beyond his term, shall be entitled to recover from his landlord the amount so paid.

When rates in arrear for two years.

392, 1886, s. 126.
2293, 1936, s. 4.

47. In any case in which rates in respect of any ratable property (other than property belonging to the Crown) are due, and unpaid, and in arrear for the period of two years, the Commissioner may, at any time after the expiration

of the said period of two years, cause to be published three times in the *Government Gazette* a notice giving a description of the land, the name of the owner, the amount of rates due, and any other matter thought fit by the Commissioner.

48. If after one year from the last publication of the said notice the rates due at the time of the first publication thereof, or any part of such rates, are still unpaid, the Commissioner may let any property specified in the notice in respect of which the rates are still unpaid, from year to year upon such terms as the Commissioner thinks fit, and may receive the rents and may apply the same in the first place in and towards reimbursing the Commissioner all costs of and attending the notice and letting, and in the next place, in and towards the payment of the rates in arrear, including as well the rates in arrear at the time of the first publication of the said notice as any rates that may have become due and in arrear up to the time of the letting, and also interest on all such rates, at the rate of ten pounds per centum per annum, from the time of the same becoming due respectively until the letting. Any surplus shall be held for the owner of the land, subject nevertheless to a deduction therefrom to satisfy any unpaid rates declared after such letting.

Power to let land for payment of rates.
392, 1886, s. 127.
2293, 1936, s. 4.

49. Every agreement, deed, or instrument entered into by the Commissioner for the purpose of effectuating any such letting, shall be valid and binding upon the owner, and every person claiming under him.

Agreement for letting to be valid against owner.
392, 1886, s. 128.
2293, 1936, s. 4.

50. (1) Instead of letting the property, as aforesaid, the Commissioner may, after one year from the last publication of the notice, if the rates due at the time of the first publication thereof, or any part of the rates, are still unpaid, apply by petition to the Supreme Court, for a sale of all or any part of the ratable property comprised in the notice.

Power to sell land.
392, 1886, s. 129.
2293, 1936, s. 4.

(2) The said Court on being satisfied by affidavit or otherwise that the rates mentioned in the notice, or any part of the rates, are lawfully due and were in arrear at the time of the first publication of the notice, shall order the sale, by public auction, of the ratable property comprised in the petition, or so much thereof as may be sufficient to pay the rates in arrear, including the rates in arrear at the time of the first publication of the notice and any rates that have become due and are in arrear up to the time of the application for sale, together with interest on all such rates, at the rate of eight pounds per centum per annum, from the time of the same becoming due respectively,

PART III.

until the application for sale, and together with all costs and expenses of and attending the notice, the application, and the sale, and that the proceeds be paid into court.

(3) The said Court may order payment, out of the proceeds of the said rates, interest, costs, and expenses, and of all other moneys (if any) then due to the Commissioner in respect of or relating to the property, in preference to any mortgage or other security on the ratable property, and that a conveyance, or if the property is under the provisions of The Real Property Act, 1886, a memorandum of transfer be executed by the Master or other officer of the Court, in such form as is approved by the Court or a Judge.

(4) Any such conveyance or the registration of any such memorandum of transfer, as the case may be, shall vest an indefeasible legal estate in fee simple in the said ratable property in the purchaser, his heirs and assigns, free from all encumbrances.

(5) The balance arising from the proceeds of the sale shall remain and be subject to any future or other orders of the Court for the behoof of the parties interested therein.

51. In case there are included in any such notice as aforesaid any ratable properties comprised in different assessments, or belonging to different owners, the same may be included in one petition for sale, and the Court may make such orders as to the apportionment of rates, interests, costs, and expenses in respect of such ratable properties, or any part thereof, as the Court may deem just.

Properties in different assessments may be included in one petition.
392, 1886,
s. 130.

PART IV.

PART IV.

DISTRICT WATER SUPPLIES.

52. In this Part—

“ council ” means a district council :

“ district ” means a district council district :

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

Interpretation.
1993, 1930,
s. 2.

53. (1) The Governor may by proclamation declare that the care, control, and management of any water conservation reserve within any district shall be vested in the council of the district, and upon the making of any such proclamation the care, control, and management of the water conservation reserve shall be vested in the council.

Power to place control of water conservation reserves in councils. 1993, 1930, s. 3.

(2) The Commissioner may at any time give notice in writing to the council of the intention of the Governor to revoke any such proclamation and the Governor may, at any time not less than six months after the giving of notice as aforesaid, by proclamation revoke any such proclamation made as aforesaid.

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

Duty of council to maintain water conservation reserve. 1993, 1930, s. 4.

(2) Any expenditure required for the purposes of subsection (1) shall be provided for by all or any of the following means:—

I. By payment from the general revenue of the council, which payment the council is hereby authorised to make :

II. By the imposition of a special rate pursuant to section 55 :

III. By the sale of water pursuant to section 56.

- s. 53. At 8th November, 1937, the following proclamations were in force whereby the care, control, and management of various water conservation reserves were vested in the district councils hereinafter mentioned:—*Gazette* 23rd April, 1931, p. 682 (Pirie). *Gazette* 7th May, 1931, p. 741 (Minlaton). *Gazette* 7th May, 1931, p. 742 (Yongala). *Gazette* 21st May, 1931, p. 805 (Kadina). *Gazette* 11th June, 1931, p. 974 (Belalie, Warooka). *Gazette* 11th June, 1931, p. 974 (Kingscote; partly resumed: *Gazette* 14th December, 1933, p. 1167). *Gazette* 25th June, 1931, p. 1045 (Truro). *Gazette* 25th June, 1931, p. 1046 (Dalrymple, Snowtown). *Gazette* 25th June, 1931, p. 1048 (Port Germein). *Gazette* 25th June, 1931, p. 1049 (Yorke Peninsula, Kanyaka). *Gazette* 25th June, 1931, p. 1050 (Lacepede). *Gazette* 25th June, 1931, p. 1051 (Munno Para West). *Gazette* 2nd July, 1931, p. 1 (Tumby Bay; partly resumed: *Gazette* 5th January, 1933, p. 2; *Gazette* 16th November, 1933, p. 1003). *Gazette* 2nd July, 1931, p. 2 (Carrieton). *Gazette* 16th July, 1931, p. 62 (Clinton). *Gazette* 16th July, 1931, p. 63 (English, Elliston, Loxton). *Gazette* 16th July, 1931, p. 64 (Orroroo). *Gazette* 16th July, 1931, p. 64 (Peake; partly resumed: *Gazette* 25th January, 1934, p. 131; *Gazette* 16th July, 1936, pp. 65-66; *Gazette* 8th October, 1936, p. 697). *Gazette* 30th July, 1931, p. 158 (Murat Bay; partly resumed: *Gazette* 22nd March, 1934, pp. 844-845). *Gazette* 30th July, 1931, p. 161 (Lameroo). *Gazette* 6th August, 1931, p. 201 (Minnipa; partly resumed: *Gazette* 22nd April, 1937, p. 850). *Gazette* 6th August, 1931, p. 201 (Pinnaroo; partly resumed: *Gazette* 20th February, 1936, p. 442). *Gazette* 21st July, 1932, p. 91 (Streaky Bay; partly resumed: *Gazette* 4th July, 1935, p. 2). *Gazette* 20th October, 1932, p. 799 (Robertstown). *Gazette* 24th August, 1933, p. 353 (Murat Bay, Tumby Bay, Kingscote). *Gazette* 7th December, 1933, p. 1127 (Carrieton). *Gazette* 7th December, 1933, p. 1128 (Lameroo). *Gazette* 14th June, 1934, p. 1433 (Karoonda). *Gazette* 30th August, 1934, p. 426 (East Murray). *Gazette* 6th September, 1934, p. 478 (Brown's Well, Karoonda). *Gazette* 6th September, 1934, p. 478 (East Murray; partly resumed: *Gazette* 3rd December, 1936, p. 1194). *Gazette* 1st November, 1934, p. 886 (Brown's Well). *Gazette* 17th January, 1935, p. 292 (Morgan). *Gazette* 30th January, 1936, p. 270 (Streaky Bay).

PART IV.

Power to impose special rate. 1993, 1930, s. 5.

55. (1) The council may, for the purpose of providing for the whole or any portion of the amount of the cost of maintenance which in any year the council is required to expend pursuant to section 54, make and levy a differential separate rate upon the ratable property within the district which the council by resolution declares to be benefited by the existence of the water conservation reserve in question.

(2) No such rate shall be made or levied unless the consent in writing of the Commissioner is obtained thereto.

(3) The said rate shall be deemed to be a rate made and levied pursuant to the provisions of the Local Government Act, 1934, and the provisions of that Act shall apply accordingly, but it shall not be necessary to obtain any consent of ratepayers to any such rate.

(4) No rate under this section shall be made or levied upon any land upon which any rate is declared pursuant to the Waterworks Act, 1932.

Power to sell water. 1993, 1930, s. 6. 2293, 1936, s. 4.

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

Water conservation reserve subject to lease. 1993, 1930, s. 7.

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

Power for council to lease water conservation reserve. 1993, 1930, s. 8.

58. (1) The council may lease for any term not exceeding twenty-one years the whole or any portion of any water conservation reserve placed under the care, control, and management of the council.

(2) No lease as aforesaid for cultivation purposes shall be granted by the council without the consent in writing of the Commissioner.

Power of council to surrender reserve. 1993, 1930, s. 9.

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

Not liable for accidental failure of supply. 1993, 1930, s. 10.

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

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

Penalty for destroying waterworks.
1993, 1930,
s. 11.

62. Any person who—

(a) unlawfully diverts or takes the waters supplying any lake, river, or watercourse connected with any waterworks under the care, control, and management of a council; or

Penalty for unlawfully taking or diverting water from any river, creek, &c.
1993, 1930,
s. 12
2293, 1936,
s. 4.

(b) does any unlawful act whereby the water therein may be diverted or diminished in quantity,

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

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

Penalty for unlawfully taking water from any waterworks.
1993, 1930,
s. 13.
Cf. U.K.
10 & 11 Vict.
c. 17, s. 59.
Cf. U.K.
26 & 27 Vict.
c. 93, s. 20.

64. Any person who—

(a) throws or conveys, or causes or permits to be thrown or conveyed, any rubbish, dirt, live or dead animal, or any noisome thing, into any waterworks under the care, control, and management of the council; or

Penalty for polluting water.

1993, 1930,
s. 13.
Cf. U.K.
10 & 11 Vict.
c. 17, s. 61.

(b) bathes therein, or washes or cleanses therein any clothing, utensil, instrument, or other thing,

shall be guilty of an offence, and liable to a penalty not exceeding twenty pounds.

PART V.

PART V.

MISCELLANEOUS.

Application
of Compulsory
Acquisition of
Land Act,
1925.
392, 1886,
s. 175.
2293, 1936, s. 4.

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

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

Limitation of
liability to
make
compensation.
392, 1886,
s. 176.
2293, 1936, s. 4.

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

Principles in
awarding
compensation.
392, 1886,
s. 180.
2293, 1936, s. 4.
Cf. U.K.
9 & 10 Geo. 5
c. 57, s. 2.

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

- i. No compensation shall be awarded in any case where the injury for which compensation is sought appears to the court to have been the result of the execution of works which were incomplete at the time of the injury if it appears to the court that the works are being *bona fide* prosecuted to completion :
- ii. No compensation shall be made for any injury, loss, or damage occasioned by the taking or diverting of surplus or flood water, either permanently or temporarily, from any lake, river, or watercourse, but compensation not exceeding the cost thereof shall be allowed for works specially erected to utilise flood waters before the seventeenth day of November, eighteen hundred and eighty-six :
- iii. There shall be considered in reduction of all claims for compensation, by reason of the execution of any

works by the Commissioner, any enhancement in value of any property of the claimant wherever situated which has been directly or indirectly caused, and any other benefit which has been gained by, or become available to, the claimant by reason of the execution of the works, or of any other works by the Commissioner under this Act or any Act repealed by this Act :

iv. The measure of damages shall in all cases be the direct pecuniary injury to the complainant by the loss of something of substantial benefit previously by him enjoyed, and shall not include remote, indirect, or speculative damages :

v. In any case where the injury complained of appears to be of a permanent or continuing character, or likely to be repeated, a sum may be awarded which the court may declare to be a compensation for all possible future repetitions of the injury, as well as for the injury already done ; and after any such award no further compensation shall be made to any person whatsoever in respect of any future repetitions of the injury.

68. (1) No compensation shall be made in respect of more than one claim for any act or acts causing, or likely to cause, the same kind of injury to the same property, though the acts may injure the interest in reversion as well as in possession in such property.

One sum may be awarded for all interests affected.
392, 1886,
s. 181.

(2) Before any sum is awarded as compensation the person claiming compensation shall satisfy the court as to the nature and extent of the respective estates or interests of the claimant and all other persons (if any) in the property said to be injured, and that he has given sufficient notice to all such other persons of his proceedings to obtain compensation under this Act.

(3) All such other persons who may appear before the court shall be entitled to be heard on behalf of their respective interest in any compensation to be awarded.

(4) In awarding any sum by way of compensation for such injury the court shall award and apportion as between the claimant and such other persons in such manner in all respects as to the court may seem fit, the amounts to be received by any, or some, or all of them respectively, out of such sum as compensation for all injury actually caused or at any time to be caused to the respective interests of the claimant or other persons in the property.

(5) The said amounts shall be received by the claimant or other person and shall be in full discharge and satisfaction of any rights, claims, or demands whatsoever accrued or to accrue to any such persons in respect of the act or acts complained of, or any further continuance or repetition thereof.

(6) Any person to whom any such sum has been awarded or apportioned as aforesaid shall have all such remedies and means of recovering that sum from the party against which the claim has been made as though such person had originally been a claimant under the claim in which the award or apportionment has been so made.

Accidental failure of supply.
392, 1886, s. 182.
2293, 1936, s. 4.

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

Free passage to be given to supply water.
392, 1886, s. 184.
2293, 1936, s. 4.

70. (1) Every owner or occupier of land which is intersected by a lake, river, or watercourse, and every owner or occupier of land through which a channel or drain is cut by the Commissioner, shall give free passage to water of supply or drainage turned into the lake, river, watercourse, channel, or drain, by the Commissioner.

(2) If it is necessary to divert, embank, or alter any such lake, river, watercourse, channel, or drain, the Commissioner may take possession of and appropriate the land necessary for the purpose.

Inspection of books of council.
392, 1886, s. 191.
2293, 1936, s. 4.

71. (1) Any person authorised by the Commissioner in that behalf shall be entitled, at all reasonable times without charge, to inspect any valuation-book, assessment-book, or rate-book of any municipal council or district council relating to property within any water district, and to take a copy of or make extracts from any such books.

(2) Any person having the custody of any such books, or any of them, who refuses or neglects to allow any such officer upon request to inspect, or to take copies of, or to make extracts from, the books, or any of them, shall be guilty of an offence, and liable to a penalty not exceeding five pounds.

Penalty for obstructing the setting out of works.
392, 1886, s. 192.
2293, 1936, s. 4.
Cf. U.K. 10 & 11 Vict. c. 17, s. 13.

72. Any person who—

(a) wilfully obstructs any person acting under the authority of the Commissioner in setting out any works undertaken by the Commissioner in pursuance of this Act; or

- (b) pulls up or removes any poles or stakes or destroys any marks made for the purpose of setting out any such works,

shall be guilty of an offence, and liable to a penalty not exceeding five pounds.

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

Penalty for destroying waterworks.
392, 1886,
s. 193,
2293, 1936, s. 4.

74. Any person who—

- (a) unlawfully diverts or takes the waters supplying any lake, river, or watercourse connected with any waterworks belonging to or under the control of the Commissioner; or

- (b) does any unlawful act whereby the water therein may be diverted or diminished in quantity,

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

Penalty for unlawfully taking or diverting water from any river, creek, &c.
392, 1886,
s. 194,
2293, 1936, s. 4.

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

Penalty for unlawfully taking water from any waterworks.
392, 1886,
s. 195,
2293, 1936, s. 4.
Cf. U.K.
26 & 27 Vict.
c. 93, s. 20.

76. Any person who—

- (a) throws or conveys or causes or permits to be thrown and conveyed, any rubbish, dirt, live or dead animal, or any noisome thing, into any waterworks belonging to or under the control of the Commissioner; or

- (b) bathes therein, or washes or cleanses therein any clothing, utensil, instrument, or other thing,

shall be guilty of an offence, and liable to a penalty not exceeding twenty pounds.

Penalty for polluting water.
392, 1886,
s. 196,
2293, 1936, s. 4.
Cf. U.K.
10 & 11 Vict.
c. 17, s. 61
(part).

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

Penalty for allowing liquid from sewer, drain, &c., to run into waterworks.
392, 1886,
s. 197,
2293, 1936, s. 4.
Cf. U.K.
39 & 40 Vict.
c. 75, Part
II.

PART V.

Removal of injurious matter on watershed.
1197, 1915, s. 7.
2293, 1936, s. 4

78. (1) If the owner or occupier of any land within the watershed of any reservoir or source of supply vested in the Commissioner—

(a) does or permits or suffers to be done on the land any act, or causes or permits or suffers to be or to remain thereon any matter or thing which, in the opinion of the Commissioner, is likely to injure the water supply ; and

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

he shall be guilty of an offence, and liable to a penalty not exceeding five pounds, and to a further penalty of one pound for every day after the day so prescribed on which the offence continues.

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

Penalty for interfering with meter.
1197, 1915, s. 6.
2293, 1936, s. 4.

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

Penalty for trespassing.
1197, 1915, s. 10.
2293, 1936, s. 4.

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

Penalty for taking timber from public water reserve.
1561, 1923, s. 4.

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

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

Penalties for pollution, &c., to apply to all waterworks.
392, 1886, s. 198.
2293, 1936, s. 4.

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

Commissioner not to be personally liable.
392, 1886, s. 216.
2293, 1936, s. 4.

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

Informations, how laid for stealing, &c.
392, 1886, s. 217.
2293, 1936, s. 4.

85. (1) All prosecutions for the recovery or infliction of pecuniary penalties, and all actions to be commenced against the Commissioner for anything done or omitted to be done in pursuance of this Act, shall be commenced within three months after the happening of the cause of prosecution or action, and not otherwise.

Actions against Commissioner.
392, 1886, s. 219.
2293, 1936, s. 4.

(2) Notice in writing of any such action and of the cause thereof shall be given to the defendant one month at least before the commencement of the action, and the defendant in any such action may plead the general issue, and give this Act and the special matter in evidence at any trial.

(3) The plaintiff shall not recover in any such action if tender of sufficient amends is made before action brought, or if after action brought the defendant pays into court sufficient amends; but in such last-mentioned case the plaintiff shall recover his costs of suit up to the time of payment into court. If a verdict passes for the defendant, or the plaintiff becomes non-suit, or discontinues, or the defendant otherwise recovers judgment, he shall recover full costs as between solicitor and client, and have his remedy for the same in the usual way.

PART V.

Service of notice of amount due and method of recovery thereof.
1197, 1915,
s. 8.
2293, 1936, s. 4.

86. (1) A notice containing particulars of any amount (other than a pecuniary penalty) payable to the Commissioner by any person under this Act, or any Act repealed by this Act, or under any by-law or notice made or published under this Act or any such repealed Act, shall be given to that person as soon as conveniently may be after the amount becomes payable.

(2) The notice may be given—

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

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

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

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

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

Amounts due to be a charge on the land.
1197, 1915,
s. 9.
2293, 1936, s. 4.

87. (1) Any amount (other than a pecuniary penalty) due to the Commissioner under this Act, or any Act repealed by this Act, or under any by-law or notice made or published under this Act, or any such repealed Act, shall, until payment,

be and remain a first charge upon the land with respect to which, or to any meter, pipe, or fitting, upon or in which, such amount is payable.

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

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

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

Existence of communication pipes evidence of contract.
1197, 1915, s. 12.
2293, 1936, s. 4.

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

Evidence of water district.
392, 1886, s. 203.
2293, 1936, s. 4.

90. Any municipal council or district council may accept any lease under this Act, and may from time to time apply all necessary portions of its revenue in paying the rent reserved thereby, and also in repairing and maintaining the waterworks so leased.

Powers of councils.
392, 1886, s. 149

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

Saving clause.
392, 1886, s. 202.
2293, 1936, s. 4.

92. All proceedings for offences against this Act (not being misdemeanours) shall be disposed of summarily.

Summary procedure.
392, 1886, s. 212.
1993, 1930, s. 15.

 THE SCHEDULE.

 ACTS CONSOLIDATED AND REPEALED.

Number and year of Act.	Short Title.
No. 392 of 1886	The Water Conservation Act, 1886.
No. 463 of 1889.	The Water Conservation Amendment Act, 1899.
No. 736 of 1900	The Water Conservation Amendment Act, 1900.
No. 1197 of 1915.	Water Conservation Act Further Amendment Act, 1915.
No. 1561 of 1923	Water Conservation Act Further Amendment Act, 1923.
No. 1993 of 1930.....	District Water Supply Act, 1930.

 By-laws and Regulations.

The following by-laws and regulations were in force under this Act on 8th November, 1937:—

Gazette—2nd April, 1925, p. 583.
 28th July, 1927, p. 242.
 1st March, 1928, p. 457.
 21st May, 1936, p. 1050.