

Metropolitan Water and Sewerage. 9 EDW. VII. No. 12,

The Common Seal of the Council of the Shire of
Glengallan was affixed hereto by—



F. GRAYSON,
President.

In the presence of—
J. E. HEALY,
Shire Clerk.

The Common Seal of the Council of the Shire of Rosenthal
was affixed hereto by—



F. R. BOYCE,
President.

In the presence of—
F. H. SELKE,
Shire Clerk.

TUCHEKOI STATE FOREST.

See FORESTS.

WARWICK TO MARYVALE RAILWAY.

See RAILWAYS.

WATER AND SEWERAGE.

9 EDW. VII. No. 12. **An Act to Make Better Provision for the Water Supply and Sewerage of the City of Brisbane and its Suburbs.**

THE METRO-
POLITAN
WATER AND
SEWERAGE
ACT OF 1909.

[ASSENTED TO 23RD DECEMBER, 1909.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I.—
PRELIMINARY

PART I.—PRELIMINARY.

Short title.

1. This Act may be cited as "*The Metropolitan Water and Sewerage Act of 1909.*"

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*Metropolitan Water and Sewerage.*PART I.—
PRELIMINARY

2. This Act is divided into Parts and Divisions, as follows:—

PART I.—PRELIMINARY :

PART II.—ADMINISTRATION :

*Division I.—The Board and its District ;**Division II.—Constitution of the Board ;**Division III.—General Powers and Proceedings ;**Division IV.—Dissolution of Existing Board ;**Division V.—Property ;**Division VI.—By-laws :*PART III.—CONSTRUCTION AND MAINTENANCE OF
WORKS :

PART IV.—WATER SUPPLY :

PART V.—SEWERAGE AND DRAINAGE :

*Division I.—Drainage Areas ;**Division II.—General Powers and Duties ;**Division III.—Sewered Premises :*

PART VI.—WATER AND SEWERAGE FUND :

PART VII.—LOANS :

PART VIII.—RATES :

PART IX.—ACCOUNTS AND AUDIT :

PART X.—OFFENCES :

PART XI.—GENERAL PROVISIONS :

*Division I.—General ;**Division II.—Compensation ;**Division III.—Powers for Execution of Act ;**Division IV.—Expenses ;**Division V.—Evidence.*

3. So much of this Act as relates to the constitution of the Metropolitan Water and Sewerage Board, and to matters preliminary thereto and to the appointment of the day for the first meeting of the Board, shall come into operation on the passing hereof. The remainder of this Act shall come into operation on the day of the first meeting of the Board, which day is hereinafter referred to as "the commencement of this Act."

4. In this Act, unless the context otherwise indicates, the following terms have the meanings set against them respectively, that is to say:—

"Authorised," when used with respect to fittings and drainage apparatus—Authorised by this Act or by the Board; when used with respect to officers—an officer of the Board authorised by the Board or the President either generally or for any particular purpose;

Commence-
ment of Act.Interpretation
53 Vic. No. 9
s. 2.

Authorised.

PART I.—
PRELIMINARY*Metropolitan Water and Sewerage.* 9 EDW. VII. No. 12,

Board.	“Board”—The Metropolitan Water and Sewerage Board constituted by this Act;
By-laws.	“By-laws”—By-laws made under the authority of this Act;
Cattle.	“Cattle”—Horses, cattle, sheep, and pigs, and such other quadrupeds as the Governor in Council from time to time, by Order in Council, declares to be cattle for the purposes of this Act;
Daily penalty.	“Daily penalty”—A penalty for each day on which an offence is continued or repeated— (a) After notice has been given to the offender of the commission of the offence; or (b) After a conviction or order by any court;
Dissolved Board.	“Dissolved Board”—The Brisbane Board of Waterworks dissolved by this Act;
District.	“District”—The Metropolitan Water and Sewerage District for the time being constituted under this Act;
Domestic purposes.	“Domestic Purposes” includes all the purposes for which water is ordinarily used in or in connection with a dwelling-house or the land attached thereto, or in watering gardens appurtenant to dwelling-houses and not used for the purposes of business, or in cleansing private vehicles, or in a ship: the term does not include the washing of decks or boats, or the use of water for livery or carriers’ stables, or for any manufacturing purpose, or for irrigation, or for water power, or for any fountain, or for any ornamental purpose;
Drain.	“Drain”—Any drain used for the drainage of one building only, or of land within the same curtilage: the term includes any drain for draining any group or block of premises by a combined operation;
Drainage apparatus.	“Drainage apparatus”—Any sink, trap, pipe, man-hole, ventilator, branch drain, connection, septic tank, or other fitting apparatus or appliance for or in connection with any sewer, drain, or sanitary convenience;
Fitting.	“Fitting”—A pipe, valve, meter, or other fitting apparatus or appliance for or in connection with water supply;

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PRELIMINARY

- “Land”—All messuages, structures, wharves, piers, jetties, premises, lands, tenements, and hereditaments of every tenure, also streams, reservoirs, and water of every description, also easements of every description: the term, when necessary, includes any part of a structure, curtilage, or premises separately occupied; Land.
- “Local Authorities Act”—“*The Local Authorities Act of 1902*”* and any Act amending or in substitution for that Act; Local Authorities Act.
- “Local Authority”—Any Local Authority constituted under the Local Authorities Act and having jurisdiction within the District or the part of the District concerned; Local Authority.
- “Minister”—The Secretary for Public Works or other responsible Minister of the Crown for the time being charged with the administration of this Act; Minister.
- “Newspaper”—A newspaper generally circulating within the District; Newspaper.
- “Occupier”—The person in actual occupation of land, or, if there is no person in actual occupation, the person entitled to possession of the land; Occupier.
- “Open to Inspection,” used in reference to books, documents, and writings belonging to or relating to the business of the Board—Open to inspection or for the making of any copy or extract at the office of the Board at all reasonable times during office hours by any person authorised by the Minister or by any ratepayer or creditor of the Board or any person acting on behalf of a ratepayer or creditor, without payment of any fee; Open to inspection.
- “Owner”—The person for the time being entitled to receive the rents and profits of the land in connection with which the word is used, whether on his own account or as the agent of or trustee for any other person, or who would be entitled to receive the same if the land were let at a rent: the term includes the registered proprietor under the Acts relating to real property and any person seised of the legal estate in land; Owner.

* 2 Edw. VII. No. 19, *supra*, page 8355.

Pipe.	“Pipe”—A main, main-pipe, pipe, stop-cock, water-cock, syphon, hydrant, branch, or other similar apparatus;
Person.	“Person” includes a firm and an association of persons, and a body corporate and a Local Authority;
President.	“President”—The President of the Board: the term, when necessary, includes the Deputy President;
Public Works Land Resumption Act.	“Public Works Land Resumption Act”—“ <i>The Public Works Land Resumption Act of 1906</i> ,”* and any Act amending or in substitution for that Act;
Ratepayer.	“Ratepayer”—A person named in the books of the Board as a person liable to pay rates;
Reservoir.	“Reservoir”—A reservoir, bore, dam, tank, cistern, or well;
Road.	“Road”—Any highway, bridge, road, street, public place, lane, footway, square, court, alley, or passage, whether a thoroughfare or not, and any public wharf or jetty: the term, when necessary, includes the roadway or pavement of a road;
Sanitary convenience.	“Sanitary Convenience” includes a water-closet, urinal, bath, slop sink, and any convenience for the like purpose;
Secretary.	“Secretary”—The secretary of the Board: the term, when necessary, includes the officer of the Board for the time being authorised to discharge the duties of the secretary;
Sewer.	“Sewer”—Any sewer or underground channel vested in or under the control and management of the Board, which is not a drain as herein defined: the term does not include— <ul style="list-style-type: none"> (a) Any natural watercourse or natural stream, into which sewage is received or discharged, or in which sewage flows; or (b) Any open water-channel or water-table in or upon any road; or (c) Any open or underground channel vested in any Local Authority and used for carrying off storm water;

* 6 Edw. VII. No. 14, *supra*, page 9135.

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- “Sewerage Works”—Any sewer, drain, structure, engine, pump, machinery, drainage apparatus, or other work for or in connection with sewerage and drainage constructed or erected whether before or after the commencement of this Act with the appurtenances; Sewerage works.
- “Stream”—A river, creek, brook, spring, aqueduct, waterway, conduit, tunnel, sluice, or other running water; Stream.
- “Structure”—Any building, wall, fence, or other structure, or anything affixed to or projecting from any building, wall, fence, or other structure; Structure.
- “This Act”—This Act and all By-laws and Orders in Council made under the authority of this Act; This Act.
- “Watercourse”—The bed of a river, creek, or other channel in which water flows either ordinarily, intermittently, or occasionally; Watercourse.
- “Waterworks”—Any reservoir, stream, structure, culvert, weir, engine, machinery, fittings, or other work for or in connection with water supply constructed or erected whether before or after the commencement of this Act with the appurtenances: the term includes all works and all matters and things connected therewith or appurtenant thereto in course of construction, erection, or completion at the commencement of this Act; Waterworks.
- “Works”—Waterworks and sewerage works, and all matters and things connected therewith or appurtenant thereto. Works.

5. (1.) Subject to this Act, the Acts specified in the First Schedule to this Act are repealed. Repeal. Schedule I.

(2.) All proceedings and things lawfully had or done by the dissolved Board under or in pursuance of any of the said Acts, or any Act thereby repealed, shall be and continue to be of the same force and effect as if no such repeal had taken place. Proceedings.

(3.) All By-laws heretofore made and still remaining unrepealed by the dissolved Board, and which would have been valid if made under the powers conferred by the said Acts, shall be and be deemed to have been valid, and shall, so far as power is conferred by this Act to make Validation of By-laws. 5 Edw. VII. No. 23, s. 8.

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By-laws for the same or similar objects, remain in force until they are repealed or amended by other By-laws or otherwise under this Act.

Penalties.

(4.) All penalties and forfeitures imposed under any of the said Acts, and incurred at the commencement of this Act, shall and may be enforced by the Board under this Act.

Rights of
Treasurer.

(5.) All rights, powers, and authorities which, at the commencement of this Act, have accrued to the Treasurer under any of the said Acts may be exercised and enforced against the Board under this Act.

PART II.—
ADMINISTRATION.

PART II.—ADMINISTRATION.

Division I.—
*The Board
and its
District.*

Division I.—The Board and its District.

The Metro-
politan Water
and Sewerage
Board.

6. (1.) For the effective administration of this Act there shall be a Board to be called "The Metropolitan Water and Sewerage Board."

Corporation.

(2.) The Metropolitan Water and Sewerage Board shall by that name be a body corporate with perpetual succession and a common seal, and shall be capable in law of suing and being sued, and of taking, purchasing, holding, and alienating land, and of doing and suffering all such other acts and things as bodies corporate may by law do and suffer.

District
defined.

7. The District of the Board shall be the area comprised within the boundaries of the Cities, Towns, and Shires, or divisions of Shires following, that is to say,—

City of—

Shire of—

Brisbane

Balmoral (divisions 1 and 2 only)

South Brisbane

Coorparoo

Town of—

Enoggera (divisions 1 and 2 only)

Hamilton

Sherwood (divisions 2 and 3 only)

Ithaca

Stephens

Toowong

Taringa

Windsor

Toombul (divisions 1 and 2 only).

The Governor in Council may, nevertheless, from time to time, by Order in Council, alter the boundaries of the said District.

The said District shall be called the Metropolitan Water and Sewerage District, and this Act shall extend and apply thereto.

Division
II.—Consti-
tution of the
Board.

Division II.—Constitution of the Board.

Number of
Board.

8. The Board shall consist of nine members, appointed or elected as hereinafter provided.

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*Metropolitan Water and Sewerage.*PART II.—
ADMINISTRATION.*Division
II.—Constitution of the
Board.*

President.

9. On or before the first day of March, one thousand nine hundred and ten, and thereafter before the first day of March in every seventh ensuing year, the Governor in Council shall appoint some person to be a member of the Board and the President thereof, but upon the office of President becoming vacant the Governor in Council may appoint a President for the remainder of the term of his predecessor in office.

The President shall devote his whole time to the service of the Board, and shall not engage in any employment other than in connection with the duties of his office.

The Governor in Council may remove the President from his office for misbehaviour or incompetence, or if he engages in any employment other than in connection with the duties of his office, or absents himself from duty for a period of fourteen consecutive days except on leave granted by the Board.

10. (1.) The ratepayers of the District shall elect eight male ratepayers to be members of the Board. For the purposes of the election of members by ratepayers, the following provisions shall apply:—

(2.) The first election of members shall be held on such day in the month of February, one thousand nine hundred and ten, and at such places within the District as the Governor in Council shall appoint. Thereafter a fresh election of members shall be held in every second ensuing year on such day in the month of February, and at such places within the District as the Governor in Council shall from time to time appoint. The first and every election of members shall be held by and before such returning officer as the Governor in Council shall from time to time appoint. The Governor in Council may designate some person to perform the duties of secretary for the purposes of the first election.

(3.) Subject to this Act, all members elected shall hold office for four years, except in the case of the first election, in which case four of the eight members then elected shall go out of office at the end of two years; and the four members who shall go out of office shall be those who received the least number of votes at the first election. If, owing to two or more of such members having received the same number of votes, it cannot be so determined which of them shall go out of office, then the question which of them shall go out of office shall be decided by lot.

PART II.—
ADMINISTRATION.*Metropolitan Water and Sewerage.* 9 EDW. VII. No. 12,*Division
II.—Constitution of the
Board.*Qualification
of member.

(4.) For the purposes of the first election of members, and every election to fill any extraordinary vacancy which may arise until the next ensuing biennial election, any male person whose name appears upon any of the voters' rolls, compiled under the Local Authorities Act and in force for any of the Areas or parts of Areas comprised within the District, shall be qualified to be elected a member of the Board.

Qualification
of voter.

(5.) For the purposes of the first election and every election to fill any extraordinary vacancy which may arise until the next ensuing biennial election, all persons whose names appear upon any of the voters' rolls, compiled under the Local Authorities Act and in force for any of the Areas or parts of Areas comprised within the District, shall be qualified to vote at any such election :

Provided that every such person shall be entitled to give one vote only at an election.

Voters' roll.

(6.) In order to enable the Returning Officer to ascertain the names of persons qualified to be elected and to vote at any election referred to in the last preceding subsection, it shall be the duty of every clerk of a Local Authority whose Area or any part of whose Area is comprised within the District to transmit to the Returning Officer, when requested by him so to do, a copy of the voters' roll in force for the Area or parts thereof of which he is clerk, certified under his hand to be a correct copy, and if he neglects so to do within fourteen days after such request he shall be liable to a penalty not exceeding twenty pounds.

The Returning Officer shall forthwith compile from the copies of the voters' rolls, so received by him from the respective clerks, one voters' roll. He shall not place the name of the same person more than once upon the roll. Such roll shall, subject to this Act, be conclusive evidence of the qualification of any person whose name therein appears to be elected a member or to vote, as the case may be, at any such election.

Qualification
of member.

(7.) For the purposes of the biennial election next ensuing after the first election of members, and of every election thereafter, any male person whose name appears upon the voters' roll of the Board, compiled as hereinafter provided, shall be qualified to be elected a member of the Board.

Qualification
of voter.

(8.) For the purposes of every election referred to in the last preceding subsection, any person whose name appears upon the voters' roll of the Board, compiled as hereinafter provided, shall be qualified to vote at any such election :

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ADMINISTRATION.Division
II.—Constitution of the
Board.

Voters' roll.

Provided that every such person shall be entitled to give one vote only at an election.

(9.) For the purposes of every such election as last aforesaid, it shall be the duty of the secretary, when and so often as he is required by the Returning Officer so to do, to compile a roll of persons entitled to vote, and in doing so the secretary shall observe the following rules:—

- (a) He shall place upon such roll the name of every person, whether male or female, who is a ratepayer of the Board, and who, in the case of a biennial election on or before the first day of December previously, or in the case of an election to fill an extraordinary vacancy before the expiration of seven days after the vacancy arose, has paid all rates (including interest thereon, if any) due to the Board for the payment of which he is or may be made liable;
- (b) In the case of land which is not occupied by the owner, he shall not place upon such roll the names of both the owner and the occupier. In such case he shall place upon the roll the name only of the person who has paid the rates as aforesaid;
- (c) He shall not place the name of the same person more than once upon the roll;
- (d) When a corporation or joint stock company is a ratepayer, it may, by writing signed by its secretary or manager or principal officer, direct that some person designated by it shall exercise the right of voting on its behalf, and the secretary, in compiling the roll, shall be guided by every such direction.

The roll when so compiled shall, subject to this Act, be conclusive evidence of the qualification of any person whose name therein appears to be elected a member or to vote, as the case may be, at an election; and such roll shall remain in force until a new roll is compiled under this Act in substitution for it.

At any time up to but not on or after the day preceding the day fixed for the nomination of candidates, such roll may be amended so as to conform with any amendments in the rate-book of the Board made since the roll was compiled.

(10.) With respect to every election, the rules set forth in the Second Schedule to this Act shall be observed.

Rules.
Schedule II.

PART II.—
ADMINISTRATION.*Metropolitan Water and Sewerage.* 9 EDW. VII. No. 12,Division
II.—Constitution of the
Board.

Vacancies.

(11.) If at any time a vacancy in the Board is caused by death, resignation, or otherwise, such vacancy shall be filled as soon as may be, in manner hereinbefore provided, by the election of another member, who shall hold office for the period during which the previous member would have held office if no vacancy had arisen: Provided that, if any such vacancy occurs within three months before the time when the previous member would have gone out of office, such vacancy need not be filled up.

Gazette
notice.

(12.) The Governor in Council shall cause the names of the first members elected to the Board to be published in the *Gazette*, and thereupon the Board shall be deemed to be duly constituted.

Declaration of
office.
Sch. V., f. 1.

(13.) Every member of the Board before entering upon the duties of his office shall make and subscribe before the Minister a declaration in form number one of the Fifth Schedule to this Act.

Disqualifica-
tions.

11. (1.) No person who is in any wise concerned or interested in any bargain or contract made by the Board, and no person having his affairs under liquidation by arrangement with his creditors, or being an uncertificated or undischarged insolvent, and no person of unsound mind, shall be capable of being or continuing a member:

Provided that nothing herein shall disqualify any person from being or continuing a member solely because he is concerned or participates in a transaction with the Board in respect of—

- (a) A lease, sale, or purchase of land; or an agreement for such lease, sale, or purchase; or
- (b) A contract entered into by an incorporated company for the general benefit of such company; or
- (c) A contract for the publication of advertisements in a public journal.

Absence.

(2.) If a member fails to attend three or more consecutive meetings of the Board extending over a period of not less than two months, without leave of absence obtained from the Board, he shall cease to be such member.

Eligibility.

(3.) Any member who retires from office may, if otherwise eligible, be immediately or at any future time re-elected to be member.

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ADMINISTRATION.

Division II.—Constitution of the Board.

12. There shall be paid out of the Water and Sewerage Fund—

(a) To the President such annual salary as the Governor in Council from time to time determines, but not exceeding one thousand pounds in any year;

Remuneration of President and members.

(b) To each member of the Board other than the President a fee of two pounds for every meeting of the Board which he attends up to the time of the termination thereof, but the total sum paid to any such member in respect of such attendance and any other allowances shall not exceed one hundred and fifty pounds in any year.

Division III.—General Powers and Proceedings.

Division III.—General Powers and Proceedings.

13. The first meeting of the Board shall be held at such time and place as the Governor in Council, by Order in Council, appoints.

First meeting. 53 Vic. No. 9, s. 113.

14. The provisions set forth in the Third Schedule to this Act shall in all matters to which they relate govern and be applicable to the proceedings and business of the Board, and shall be observed.

Provisions relating to proceedings and business. Schedule III.

15. (1.) The Governor in Council may at any time, by Order in Council, suspend, amend, or rescind any resolution of the Board, or may prohibit the expenditure of any moneys from the Water and Sewerage Fund upon any work which he deems unnecessary, or which will in his opinion impose undue burdens upon the ratepayers of the District or any part thereof.

Governor in Council may intervene. 2 Edw. VII. No. 19, s. 43.

(2.) If, whether in pursuance of any resolution of the Board, or otherwise, any payment of money has been made to any member out of any moneys under the control of the Board which the Governor in Council considers unnecessary, extravagant, or illegal, the Minister shall order such member to repay such money to the Board forthwith or within such time as the Minister allows.

Extravagant allowances, &c.

If such member does not repay such money in pursuance of such order, the order may be made an order of the Supreme Court by filing a copy thereof in the office of the Registrar of such Court, and may be enforced accordingly.

16. (1.) The Board from time to time shall appoint a secretary, and may appoint such engineers, surveyors, inspectors, collectors, clerks, rangers, turncocks, and other

Appointment of officers. 53 Vic. No. 9, ss. 76, 130.

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III.—
General
Powers and
Proceedings.

officers and servants as may be necessary for the purposes of this Act and for the due administration thereof.

It may out of the Water and Sewerage Fund pay to its officers such salaries and allowances as it may determine.

Bailiffs.

(2.) The Board may from time to time appoint a bailiff or bailiffs for the purpose of levying rates and other moneys due to the Board by distress and sale.

A bailiff so appointed shall have power and authority to sell by public auction any goods and chattels seized under warrant of distress without taking out a license as an auctioneer.

Division
IV.—
Dissolution
of Existing
Board.*Division IV.—Dissolution of Existing Board.*Dissolution of
existing
Board and
transfer of
property, &c.

17. (1.) Upon the commencement of this Act the Brisbane Board of Waterworks shall be dissolved, and thereupon the following provisions shall be applicable:—

(2.) All the waterworks and all lands vested in or under the control of the dissolved Board, and all interests, rights, benefits, and advantages appurtenant to, connected with, or related to all such waterworks and lands, and all other works, structures, plant, machinery, pipes, and all other appliances, fittings, and apparatus (other than service pipes laid within any private land at the cost of any owner or occupier of such land), and all personal property whatsoever of the dissolved Board, shall, without any conveyance, assignment, or transfer, be vested in the Board for the purposes of this Act. All such waterworks constructed or in course of construction shall continue and be completed and shall be maintained and managed by the Board under and subject to this Act in all respects as if they had been constructed under the authority hereof.

Rights and
liabilities, &c.

(3.) All rights, liabilities, obligations, contracts, and engagements of the dissolved Board then existing shall be, and continue to be, vested in, and shall attach to, and may be enforced by or against, the Board under this Act.

Rates, &c.,
due.

(4.) All Rates and other moneys which are then due or payable to or leviable by the dissolved Board shall be and continue to be so due, payable, and leviable, and may be paid to, and received, levied, and recovered by the Board under this Act.

Actions, &c.

(5.) All actions and proceedings then pending by or against the dissolved Board may be carried on and prosecuted by or against the Board under this Act, and no such action or proceeding shall abate or be discontinued or prejudicially affected by anything in this Act contained.

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PART II.—
ADMINISTRATION.

*Division IV—
Dissolution of Existing Board.*

Existing licenses, registrations, and permits.

(6.) All licenses, registrations, and permits duly issued, made, or granted by the dissolved Board, and then subsisting, shall continue in force for the period, if any, specified in such licenses, registrations, or permits unless the same are sooner suspended, cancelled, or revoked under or in pursuance of this Act.

Division V.—Property.

Works to be the property of Board.
s. 5. No. 9.

Division V.—Property.

18. The whole of the works, and all water which at any time is in any stream, watercourse, reservoir, pipe, or other part of the waterworks, and the whole contents of any sewer or drain under the control of the Board, and all moneys received by the Board under this Act shall vest in and be the property of the Board, and shall be used and dealt with by it for the purposes of this Act.

19. Save as herein provided, all land vested in or in the occupation of the Board shall be deemed to be rateable land within the meaning of the Local Authorities Act:

Qualified exemption from rates.

Provided that such land, if occupied by any of the sewers, drains, or pipes of the Board, or any fittings or drainage apparatus of the Board, shall not be so deemed to be rateable land.

Division VI.—By-laws.

*Division VI.—
By-laws.*

20. Subject to this Act, the Board may from time to time make By-laws with respect to all or any of the matters mentioned in the Fourth Schedule to this Act.

Power to make By-laws. Schedule IV. 2 Edw. VII. No. 19, s. 182.

21. (1.) Unless by this Act it is otherwise expressly provided, no By-law shall contain any matter contrary to this Act or any law in force in Queensland.

Provisions as to By-laws. 2 Edw. VII. No. 19, s. 183.

(2.) A By-law may impose a penalty for any breach thereof, and may also impose different penalties in case of successive breaches. But no such penalty shall exceed fifty pounds.

A By-law may also impose a daily penalty for any breach thereof. But no such penalty shall exceed five pounds per day.

A By-law may provide that in addition to a penalty any expense incurred by the Board in consequence of a breach of such By-law, or in the execution of work directed by the By-law to be executed by any person and not executed by him, shall be paid by the person committing such breach or failing to execute such work.

(3.) A By-law may require any work or thing to be executed or done of such materials, within such time, or

PART II.—
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Division
VI.—
By-laws.

in such manner, as may be directed or approved in any particular case by the Board or the President, or any authorised officer or other person, and may require works to be executed only by qualified and licensed persons.

(4.) A By-law may authorise the Board or the President, or any authorised officer, to pull down, remove, or alter any work, structure, material, or thing erected or being in breach of any By-law, and to recover all expenses incurred in so doing. The exercise of this authority shall not relieve any person from liability to any penalty incurred by reason of such breach.

(5.) A By-law may leave any matter or thing to be from time to time determined, applied, dispensed with, prohibited, or regulated by the Board by resolution or by the President or by any authorised officer either generally or for any classes of cases, or in any particular case.

(6.) A By-law may provide for the issue or making of licenses, registrations, or permits to or with respect to persons and property, and for the payment of reasonable license, registration, and permit fees.

(7.) A By-law may provide for the payment of reasonable fees for inspections and other services by officers of the Board.

(8.) A By-law may apply to a specified part only of the District.

Passing of
By-laws.
2 Edw. VII.
No. 19, s. 185.

22. (1.) Every By-law shall be passed at a special meeting of the Board called for that purpose, and shall be confirmed at a subsequent special meeting of the Board, and shall be sealed with the seal of the Board.

Publication
of notices of
proposed
By-law.

(2.) After a resolution for passing a By-law has been agreed to by the Board, and not less than fourteen days before the resolution is confirmed, a copy of such By-law shall be deposited at the office of the Board, and shall be there open to inspection; and a notice shall be published in some newspaper setting forth the general purport of the proposed By-law, and stating that a copy is open to inspection.

To be
approved by
Governor in
Council.

(3.) After a By-law has been sealed it shall be submitted for the approval of the Governor in Council, and if approved by him shall be published in the *Gazette*, and thereupon such By-law shall have the force of law.

Repeal of
By-laws.
2 Edw. VII.
No. 19, s. 186.

23. A By-law or part of a By-law may be repealed by the Governor in Council by Order in Council.

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PART II.—
ADMINISTRATION.

Division
VI.—
By-laws.

24. Notwithstanding the amendment or repeal of any By-law, every offence committed against the By-law before the amendment or repeal thereof shall be adjudicated upon and punished; and every act or proceeding done or commenced, and every right, privilege, or protection acquired, and every liability incurred, shall continue to be prosecuted and be of the same force and effect as if the By-law had not been amended or repealed.

Saving of past operation of amended or repealed By-law.
2 Edw. VII.
No. 19, s. 187.

25. If any resident ratepayer desires to dispute the validity of a By-law or part of a By-law, he may pay into the Supreme Court the sum of twenty pounds as security for the costs of the proceedings, and may thereupon apply to the said Court or a Judge thereof for an order calling upon the Board to show cause why such By-law or part of a By-law should not be quashed for the invalidity thereof.

Testing the validity of By-law.
2 Edw. VII.
No. 19, s. 188.

Upon the hearing of the matter, the Court or Judge may quash or amend the By-law, or confirm the validity thereof, as to the Court or Judge seems meet.

If the Court or Judge quashes or amends the By-law, the amount paid into Court as security for costs shall be ordered to be repaid to the ratepayer, with costs not to exceed twenty pounds or without costs, as the Court or Judge determines.

If the validity of the By-law is confirmed, the Court or Judge may make an order for the payment to the Board of the amount paid into Court as security for costs.

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PART III.—CONSTRUCTION AND MAINTENANCE OF WORKS.

26 Subject to this Act, the Board shall have power, from time to time, to construct, acquire, provide, extend, renew, and improve, and to maintain, alter, and repair, waterworks and sewerage works, and to discontinue such of them as in its opinion are obsolete or useless.

Board may construct works.

27. (1.) Subject to this Act, the Board shall have power, from time to time—

Brisbane River supply.
53 Vic. No. 9,
s. 9;
2 Edw. VII.
No. 14, ss. 5.

- (a) To obtain from the River Brisbane or any tributary thereof at the locality fixed by the plans heretofore duly approved, and at other localities shown on and fixed by plans to be submitted to and approved by the Governor in Council, as hereinafter provided, and also from its reservoirs, an adequate supply of water for the District, and whether in substitution for or in addition to any existing supply;

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OF WORKS.
Weirs.

Metropolitan Water and Sewerage. 9 Edw. VI. No. 12,

Filtration and
purification.

- (b) To construct and thereafter maintain, repair, enlarge, alter, and renew any weirs across the River Brisbane or any tributary thereof;
- (c) To establish works and furnish appliances, in any suitable locality approved by the Governor in Council, for the filtration and purification of water.

Saving of
rights of
Ipswich
Water
Authority.

(2.) Nothing contained in this Act shall be construed to empower the Board to construct any weir or to execute any other works in or upon or in connection with that part of the River Brisbane between the point nearest to the pumping station of the Ipswich Water Authority and a point distant ten miles along the course therefrom towards the source of the said river without the sanction in writing of the said Water Authority.

No
compensation.

(3.) No compensation shall be payable in respect of any diminution of the quantity of water in the River Brisbane, or any part thereof, or any tributary thereof, or in any stream or watercourse, by reason of any works of the Board.

No action.

(4.) After such compensation as is payable under this Act has been paid to all persons interested, no action, indictment, information, or other proceedings shall be commenced, presented, prosecuted, or maintained against the Board or any officer thereof or other person for or in respect of any alleged obstruction of the navigation of, or deprivation of access to, or diminution of the quantity of water in the River Brisbane, or any part thereof, or any tributary thereof, by reason of the execution of any work authorised by this Act, or for or in respect of any damages, loss, or expenses occasioned or alleged to be occasioned or in anywise whatsoever arising therefrom, except damages, loss, or expenses occasioned or alleged to be occasioned by the flooding of lands by reason of the execution of any such work.

Preliminaries
to construc-
tion.
53 Vic. No. 9,
s. 10.
Surveys and
levels.

28. (1.) The Board shall, before undertaking the construction of any works—

Plans, &c., to
be deposited.

- (i.) Cause the necessary surveys and levels of lands and roads to be made and taken; and
- (ii.) Cause to be prepared plans, sections, specifications, books of reference, and an estimate of the cost of the proposed works, together with a statement showing the net earnings, if they

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are intended to be immediately revenue-producing, estimated to be derived from them, and a statement showing the rateable value under the Local Authorities Act of the land to be benefited by them, and cause the same or certified copies thereof to be deposited at the office of the Minister, and also at the office of the Board; and

- (iii.) Cause an advertisement to be published in the *Gazette* and in at least two newspapers specifying— Notice.
- (a) A description of the proposed works;
 - (b) The localities at which they will be constructed;
 - (c) The purposes for which they are to be constructed;
 - (d) The parts of the District which are intended to be supplied with water or drained;
 - (e) The times when and places at which the plans, sections, specifications, and books of reference may be inspected.

(2.) The documents so deposited shall be open to inspection. Inspection.

29. On the deposit of the documents aforesaid at the office of the Minister, the Minister may cause them to be examined and reported on by an engineer, who shall, if required by the Minister, visit the locality of the proposed works before reporting upon the same. Minister may cause plans, &c., to be examined. 53 Vic. No. 9, s. 11.

30. (1.) Any Local Authority or person interested may object in writing to the construction of the whole or any part of the proposed works. Objections.

(2.) Every such objection shall be lodged with the Minister within one month from the date of the publication in the *Gazette* of the advertisement hereinbefore prescribed, and shall be inquired into and reported on by the engineer aforesaid.

(3.) If, after the expiration of one month from such publication the Minister is satisfied that— Governor in Council may authorise construction of works. 53 Vic. No. 9, s. 12.

- (a) This Act has been complied with;
- (b) The revenue estimated to be derived from the proposed works (if they are intended to be immediately revenue producing) is sufficient to justify the undertaking;
- (c) The works, if carried out in the manner designed, will be for the public benefit; and

(d) The objections, if any, lodged are not sufficient to require the approval of the Governor in Council to be withheld;

he shall submit the documents to the Governor in Council for approval.

(4.) If they are approved, the Governor in Council may forthwith, by Order in Council, empower the Board to construct the works.

Such Order shall be notified in the *Gazette* and in at least two newspapers.

Interference
with railway
works.

31. When any works may interfere with any property vested in the Commissioner for Railways, the Board shall before commencing the same give notice of its intention to the said Commissioner, together with a plan and section showing the nature of such interference.

Unless the said Commissioner within one month after the service of such notice delivers to the Board a statement under his hand of any objections he has to the proposed works, he shall be taken to have approved thereof.

If any objections are made by the said Commissioner which the Board considers unreasonable, the matter in difference shall be determined by the Governor in Council, whose decision shall be final and binding on the parties.

But such proposed works shall not be proceeded with until the parties have agreed or such decision has been given.

Plans of
outlet to be
submitted to
Marine
Board.

32. In order to preserve the navigation of the River Brisbane, the plans of any sewerage works proposed to be constructed upon the bank, bed, or shore of the said river, or of the sea adjacent to the mouth of the said river, shall be submitted to the Marine Board of Queensland before such works are commenced.

Unless the said Marine Board, within one month after the receipt of a copy of such plans, serves upon the Board a notice specifying their objections to the proposed works as interfering with the navigation of the said river, the said Marine Board shall be taken to have approved thereof.

If any objections are made by the said Marine Board which the Board considers unreasonable, the matter in difference shall be determined by the Governor in Council, whose decision shall be final and binding on the parties.

But such proposed works shall not be proceeded with until the parties have agreed or such decision has been given.

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33. The Board may exercise all or any of its powers outside the District for the purpose of the storage of water or of the outfall or distribution or disposal of sewage:

Board may
go outside
District.

Provided that two months at least before commencing the construction of any such work outside the District the Board shall give notice of the proposed work by advertisement in at least two newspapers, and in such notice shall describe the nature of the proposed work, and shall state the names of the roads and lands (if any) through, across, under, over, or on which the work is to be constructed, and shall appoint a place where a plan of the intended work is open to inspection.

A copy of such notice shall be sent to the owners and occupiers of such lands so far as known and to the Local Authorities concerned.

Objections.

If any such owner, occupier, or Local Authority, or any person who would be affected by the work, gives to the Board notice in writing of his or its objection to such work, the Board shall not commence the work without the approval of the Governor in Council, who may direct an inquiry to be made into the matter of the said objection, and may employ such person as he thinks fit to make such inquiry.

34. (1.) Subject to this Act, for the purposes of the construction, maintenance, management, and control of works, and the doing of anything which the Board is by this Act authorised to do, the Board, by its officers, servants, and agents, may, from time to time, exercise the following powers, and do all such auxiliary or consequential acts, matters, and things as it deems proper for the execution of this Act:—

Powers of
Board.
53 Vic. No. 9,
ss. 13, 14.

(2.) Under and subject to the Public Works Land Resumption Act, the Board may take, purchase, rent, exchange, contract for the use of, or otherwise provide such land as it deems necessary, and shall for that purpose be deemed to be a constructing authority within the meaning of that Act.

Any land so acquired, which is no longer required for the purposes of this Act, may be sold or leased at the best price or rent that can be obtained for the same.

(3.) The Board may construct and provide works and machinery for collecting, receiving, storing, disinfecting, purifying, distributing, destroying, utilising, or disposing of sewage and sewage matter; and may establish sewage farms.

For such purposes, the Board may—

- (a) Contract to supply for any period not exceeding twenty-one years any person with sewage, and as to the execution and cost of works for the purposes of such supply;
- (b) Contract for the purchase, sale, or disposal of screenings, sludge, and other materials.

(4.) The Board may deal with any land held by it for sewerage purposes in such manner as it deems most profitable, either by leasing the same for a period not exceeding twenty-one years for agricultural or other purposes, or by contracting with some person to take the whole or part of the produce of such land, or by farming such land and disposing of the produce thereof; subject to this restriction, that in dealing with land for any of the above purposes provision shall be made for effectually disposing of all sewage brought to such land without creating a nuisance.

If the Board agrees with any person as to the supply of sewage to such land and as to the works to be made for the purpose of such supply, it may contribute to the expense of carrying into execution by such person all or any of the purposes of such agreement.

(5.) The Board may enter upon any land or road and make surveys and take levels, and set out such parts of any work as it thinks fit, and break up the soil, and carry out therein all necessary operations, and erect fences, and remove or use any earth, trees, timber, materials, and other things in, on, or under the land or road, and where necessary carry on blasting operations.

(6.) The Board may construct and maintain in, on, or under any road, or under any railway or tramway, or in, on, through, across, over, or under any land, pipes, streams, ditches, flumes, sewers, drains, manholes, syphons, tunnels, and other works, and open, cleanse, repair, alter, discontinue, or remove any of them.

Such alteration or discontinuance of a sewer or drain shall only be permitted on condition of providing a sewer or drain as effectual for the use of any person who is thereby deprived of the lawful use of a sewer or drain.

(7.) The Board may temporarily place on any part of any road any pipes, fittings, apparatus, appliances, or things during or in preparation for the construction of any works: Provided that such pipes, fittings, apparatus, appliances, or things shall not be so placed as unnecessarily to obstruct traffic or the drainage of any road, and

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that no more of the same shall be so placed than are reasonably necessary for the works as the works proceed.

(8.) The Board may divert, intercept, and store all water in or coming from any stream, watercourse, or other source, or in any water reserve or catchment area under the control of the Board, and alter the course of any such stream or watercourse, and take any water found under or on any land.

The Board shall, when reasonably practicable, provide other watering places and channels for the use of adjoining lands in place of those taken away or interrupted.

(9.) The Board may cause any sewage to discharge upon land acquired by the Board for that purpose, or to communicate with the sea or any arm thereof, or with any stream or watercourse, or to be sold or otherwise disposed of as it sees fit.

The Board shall not make or use any sewer, drain, or outfall for the purpose of conveying any sewage or filthy water into the sea or any arm thereof, or into any stream or watercourse until such sewage or filthy water is purified and rendered innocuous.

(10.) The Board may construct ventilating shafts or tubes in any road or land, and may, if it thinks fit, carry them up the exterior wall of any structure, whether public or private:

Provided that the mouth of every such shaft or tube shall be at least six feet higher than any window or door situated within a distance of thirty feet therefrom.

The Board may make use of the chimney of any public building or of any factory or of any tramway building as a ventilating shaft or tube.

(11.) The Board may cause the drainage from sewerage construction works to flow along any channel or watercourse during the course of such construction.

(12.) If the Board deems it necessary to alter the situation of any tram rails, water pipes or water works, gas pipes, or gas works, hydraulic steam or other pipes, electric or telephonic lines, pneumatic pipes or tubes, or other works laid in or under or over any road or land, it may, by notice in writing, require the person to whom the works belong to alter the situation of the same in such manner and within such reasonable time as is specified in such notice.

The expense connected with any such alterations shall be paid by the Board.

If such notice is not complied with, the Board may make the alterations required.

(13.) In the exercise of the powers conferred by this Act, the Board shall do as little damage as may be.

(14.) The Board shall not exercise any of its powers under this Act in such a manner as to create a permanent nuisance.

Provision relating to breaking up roads.

35. (1.) The following provisions shall apply to the breaking up of roads by the Board or by any person under its authority under this Act:—

Notice.
53 Vic. No. 9,
ss. 15 to 17,
19.

(2.) Before the Board or such person breaks up any road, the Board shall give to the Local Authority concerned notice in writing specifying the proposed work not less than forty-eight hours before beginning the work, except in cases of emergency which, in the opinion of the Board, justify the omission to give notice, in which case the notice shall be given as soon as conveniently may be after beginning the work or after the necessity for it has arisen.

Traffic.

(3.) Except by the permission of the Local Authority, the traffic in such road shall not at any one time be stopped or hindered along more than half the width thereof, nor, if the half left open is of less than the clear width of fourteen feet, along more than two hundred yards in length.

Temporary works.

(4.) In any case the Board or such person acting under its authority shall make such temporary and other works for the convenience of passengers and traffic as the circumstances require.

Superintendence.

(5.) When a notice is required to be given, a road shall not, except in case of emergency, be broken up except under the superintendence of an officer of the Local Authority concerned.

But if such officer, after notice, fails to attend at the time fixed for the breaking up, or if such officer refuses or neglects to superintend the work, the Board or such person may perform the work without such superintendence.

Reinstatement without delay, and precautions.

(6.) When the Board or such person breaks up a road, it or he shall—

(a) With all convenient speed complete the work for which it is broken up, and fill in the ground, and reinstate and make good the road and carry away all surplus materials and the rubbish occasioned by the operations; and

(b) At all times, whilst any such road continues broken up, cause it to be fenced and guarded, and a sufficient light to be kept there at night; and

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- (c) Keep every road which has been so broken up in good repair for three months after making good the same.

The Board and such person as aforesaid shall each of them be liable in respect of any injury or damage occasioned to any person by reason of the failure of the Board or such person as aforesaid to comply with the foregoing provisions.

(7.) If the Board or such person as aforesaid, having broken up a road—

- (a) Keeps it broken up longer than is reasonably necessary, or makes any unnecessary delay in making good such road or in carrying away all surplus materials and the rubbish occasioned by the operations; or
- (b) Neglects to cause the road to be fenced, guarded, and lighted as prescribed;

the Local Authority concerned may do the necessary work, and recover from the Board or the person in default the expense incurred.

36. (1.) For ascertaining whether water is fouled by the gas of any person making or supplying gas, the Board may break up the ground and examine the pipes and works of such person.

Examination of gas pipes to ascertain cause of water being fouled.

But before proceeding to do so the Board shall give at least twenty-four hours' notice, in writing, to such person of the time at which the breaking up and examination will take place, and shall give the like notice to the Local Authority having the control of any road to be broken up.

(2.) If upon the examination it appears that the water has been fouled by gas belonging to the said person, all the expenses of the operations shall be paid by him.

But if it appears that the water has not so been fouled the Board shall pay all the expenses of the operations, and also make good to the said person any injury occasioned to his works by the operations.

37. If upon an examination it is found that any work of the Board has become injured or defective by reason of the escape thereto or influence thereon of electricity from any electric tramway or any electric line or electric works, all expenses of opening up and reinstating the ground, and of examining, removing, reinstating, or replacing any such work of the Board may be recovered by the Board from the owner or person controlling such tramway line or works.

Damage to works by electricity.

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CONSTRUCTION AND
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OF WORKS.

Metropolitan Water and Sewerage. 9 Edw. VII. No. 12,

Local
Authorities to
give
particulars.

38. (1.) Every Local Authority shall furnish to the Board all such information and particulars as are at its disposal with respect to any surveys of lands or alignments of roads, or the situation, level, fall, and condition of any sewerage works made or constructed by it or under its control.

Every Local Authority shall, when requested by the Board, give particulars of any ascertained levels of any road in which it is proposed to lay any pipe, sewer, or drain.

Every Local Authority shall give to the Board at least forty-eight hours' notice, in writing, of its intention to alter the level of any road in which any work of the Board is placed. Thereupon the Board may alter the situation of such work, and the cost of so doing shall be a debt due by the Local Authority to the Board.

Any Local Authority acting in contravention of this section shall be liable to a penalty not exceeding fifty pounds.

Exoner-
ation
of Local
Authority.

(2.) The Local Authority in whose Area any works undertaken by the Board are in progress is hereby absolved from all liability in respect of any injury or damage occasioned in consequence of such works.

PART IV.—
WATER
SUPPLY.

PART IV.—WATER SUPPLY.

Water
reserves and
catchment
areas may be
constituted.

39. The Governor in Council may from time to time, by Order in Council, constitute and define the boundaries of any water reserve or catchment area for the purposes of this Act, and may place any such water reserve or catchment area under the control of the Board.

Any such water reserve or catchment area may be situated wholly within or wholly without the District, or partly within and partly without the District.

Board to
supply water
for domestic
purposes.
53 Vic. No. 9,
ss. 20, 21.

40. The Board shall, as far as practicable, afford and distribute to all persons entitled to receive it under this Act a constant supply of pure water for domestic purposes in the prescribed manner:

Provided that—

- (i.) The Board shall not be bound to supply water for any domestic purpose unless satisfied that the fittings used, and the mode and arrangement of them, are such as are prescribed or authorised;
- (ii.) Notwithstanding anything contained in this Act or in any agreement, the Board shall not be bound to supply water to any person, or be liable to any penalty or damages for not supplying water to any person, if the want of such supply arises from unusual drought or other unavoidable cause or accident;

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(iii.) The Board may refuse to supply water for any purpose specified in the By-laws.

41. (1.) The Board shall provide, without any payment, for use in the Botanic Gardens, Brisbane, a supply of water not exceeding five million gallons in quantity in any year. Supply to Botanic Gardens. 5 Edw. VII. No. 23, s. 2.

(2.) The Board shall also provide, without any payment, to each of the hospitals hereunder mentioned, a supply of water not exceeding in any year the quantity mentioned respectively in connection with each such hospital, that is to say,— Supply to hospitals.

Brisbane General Hospital, five million gallons.

Sick Children's Hospital, Lady Bowen Lying-in Hospital, Lady Lamington Hospital for Women, Friendly Societies Hospital, Mater Misericordiæ Hospital, and Queensland Blind, Deaf, and Dumb Institution, each five hundred thousand gallons.

(3.) The Board shall also provide without any payment a supply of water in such quantities and for such period of time to any public hospital as the Governor in Council may from time to time direct.

(4.) In all pipes in which any fire-hydrant is fixed the Board shall provide and keep constantly laid on for use, unless prevented by unusual drought or other unavoidable cause or accident or during necessary repairs, an adequate supply of water for the following purposes, that is to say,— Supply of water for public purposes. 53 Vic. No. 9, s. 35.

- (a) Cleansing sewers and drains;
- (b) Cleansing and watering roads;
- (c) Supplying any baths, drinking fountains, and horse-troughs established for the use of the inhabitants and paid for out of any Local Fund; and
- (d) Extinguishing fire.

For the purposes referred to in paragraphs (b) and (c) hereof, such supply shall be provided in such quantities and at such price and upon such terms and conditions as may be agreed upon by the Board and the Local Authority concerned, or, if they cannot agree, as may be fixed by the Minister.

All persons are empowered to take free of charge and to use so much water as is necessary for extinguishing fire.

42. Upon application by any Local Authority whose Area adjoins the District, or through whose Area any stream or pipe of the Board passes, the Board may supply water to such Local Authority by measure and on such terms and conditions as may be agreed upon between the Board and such Local Authority: Water supply to adjoining areas.

Provided that the charge to be made for water so supplied shall in no case be less than the charge prescribed for water supplied by measure within the District.

Request for
supply to
premises in a
road.
53 Vic. No. 9,
s. 29.

43. When a main pipe has been laid down in any road and the Board is prepared to supply water therefrom, notification of the fact shall be advertised in a newspaper, and thereupon the Board shall, on receiving from the owner or occupier of land abutting on any road in which such main pipe has been laid down a written request for a supply of water for domestic purposes, authorise some competent person to construct and fix, at the cost of such owner or occupier, all the works and fittings necessary for so supplying water.

Supply in
other cases.
53 Vic. No. 9,
ss. 30, 31.

44. (1.) The owner or occupier of any land situated within the District, but more than three hundred feet from any main pipe of the Board, may, in writing, request the Board to supply water for domestic purposes to such land.

(2.) The owner or occupier of any land not situated within the District may, in writing, request the Board to supply water for domestic purposes to such land.

(3.) The Board may comply or refuse to comply with any such request, and if it complies may authorise some competent person to construct and fix, at the cost of such owner or occupier, all the works and fittings necessary for so supplying water.

Subject to
same
provisions as
lands within
District.

(4.) Provided that—

(i.) All lands to which the Board supplies water under this section, and the owners and occupiers thereof, and the works and fittings for the supply, shall thenceforth be subject to this Act in the same manner as if such lands abutted on a road within the District in which a main pipe is laid down ;

Expenses to
be paid by
applicant.

(ii.) The person who makes such request shall, from the time when the supply is given to him, pay water rates not in any case less in amount than those which would have been payable by him if the land were so situated as last aforesaid.

Agreement to
supply water
for
non-domestic
purposes.
53 Vic. No. 9,
ss. 24, 25.

45. (1.) Subject to this Act, the Board may agree with an owner or occupier of land situated within or without the District, to supply water to be used by him on that land, but not elsewhere, for purposes other than domestic purposes.

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*Metropolitan Water and Sewerage.*PART IV.—
WATER
SUPPLY.

(2.) Water supplied by the Board at places other than a reservoir to a consumer for purposes other than domestic purposes shall be charged and paid for by measure at a prescribed price, or upon such other basis of assessment as the Board thinks proper.

46. (1.) The Board may, in lieu of making and levying water rates or otherwise, sell and supply water by measure to consumers, who, subject to any minimum amount fixed by By-law as payable in every case, shall pay according to the quantity of water consumed, such quantity being ascertained by a meter fixed on the land of the consumer or by any other prescribed means; and the Board shall by By-law fix the scale of charges to be paid. The Board may by such By-law fix a minimum amount as payable in every case.

Board may
sell water.
53 Vic. No. 9,
s. 60; 5 Edw.
VII. No. 23,
s. 2.

(2.) If the Board and a consumer differ as to the quantity of water consumed, such difference may be determined, upon the application of either party, by two or more justices, who may also order by which of the parties the costs of and incident to the proceedings before them shall be paid, and the decision of the justices on matters of fact shall be final and binding on all the parties.

Dispute as to
quantity to be
settled by
justices.

(3.) Payment for water supplied by the Board by measure shall be made at such times and for such periods as the Board determines, and shall, if the Board thinks proper, be made wholly or partly in advance and subject to periodical adjustment.

47. When the water upon which the Board relies for the maintenance of the supply has been diminished to such an extent as to render it expedient, in the opinion of the Board, to lessen the quantity of water supplied, such supply may be discontinued or lessened throughout the whole or any part of the District, or under any agreement for supply outside the District, as the Board thinks proper, and the Board shall not on that account incur any liability:

Board may
lessen supply.
53 Vic. No. 9,
s. 22.

Provided that, before the supply is discontinued or lessened for domestic purposes, reasonable public notice shall be given by the Board of its intention so to do.

48. When the Board apprehends that, by reason of drought or other cause, the water available will not suffice for domestic purposes unless the supply is discontinued or lessened for other purposes, the Board may, notwithstanding anything in this Act or in any agreement, give to any consumers supplied with water for other purposes

When supply
may be
discontinued
for
non-domestic
purposes.
53 Vic. No. 9,
s. 26.

notice that their supply will, from a date mentioned in the notice, be so discontinued or lessened for all purposes other than domestic purposes.

From and after that date the Board may so discontinue or lessen the supply, and shall not on that account incur any liability, and the consumers shall during such discontinuance or lessening only be liable to pay the price of the water actually received by them prior to such discontinuance or lessening, and, if the supply is only lessened, a price *pro rata* in respect of the lessened supply.

Public
fire-hydrants.
53 Vic. No. 9,
ss. 32, 33.
N.S.W., 1889,
No. 16, s. 33.

49. (1.) At the request of the Local Authority having control of the place in question, the Board may fix upon main or other pipes throughout the District fire-hydrants for the supply of water for extinguishing fire.

(2.) The Board shall—

- (a) Keep such fire-hydrants in effective order ;
- (b) Deposit keys thereof at such stations as are required by the Local Authority ; and
- (c) Put up a sufficient public notice in each road in which a fire-hydrant is placed, showing its situation.

Every such notice shall be posted in some conspicuous place, and may be affixed to any structure or tree in such road.

Fire-hydrants
near factories.
53 Vic. No. 9,
s. 34.

50. The Board may, at the request of the owner or occupier of a factory or other premises situated in a road in which water has been laid on by the Board, place and maintain in effective order a fire-hydrant, as near as convenient to such factory or other premises, and shall in such case supply a key of such fire-hydrant to the owner or occupier ; but the fire-hydrant shall not be opened or used, nor shall the key be used, except for the purpose of extinguishing fire or for the purpose of keeping the fire-hydrant in proper working order.

Private fire
services.

51. With the written permission of the Board, private fire services may be installed on any land.

Every such service shall be sealed, and, except in case of fire, no person shall, without the written permission of the Board, wilfully break or tamper or otherwise interfere with such seal.

If any such seal is accidentally broken, the occupier of the land shall, within twenty-four hours after such breakage or the discovery thereof, give written notice of such breakage to the Board.

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WATER
SUPPLY.

No water shall be taken from any such service without the written permission of the Board except for the purpose of extinguishing fire.

The Board may cause a meter to be fixed on any such service.

The Board may at any time refuse to continue a fire service to the land.

52. Water belonging to or supplied by the Board for domestic purposes shall not be taken or used—

- (a) For purposes other than domestic purposes (except for the purpose of extinguishing fire) unless the person who takes or uses it does so by the permission of the Board; Purpose for which water may be used. 53 Vic. No. 9, s. 36.
- (b) For watering cattle or cleansing wheeled vehicles, other than private vehicles, or for any trade, manufacture, or business, or for troughs or fountains, or for any ornamental purposes, or for irrigation, or as a motive power, or for heating or ventilating purposes, except upon payment of the additional sum, if any, prescribed in that behalf.

53. (1.) The Board may cause to be placed a meter and any other prescribed fittings on any land supplied with water, and to be attached to any fittings there. Meters. 53 Vic. No. 9, ss. 62, 63.

When a meter has once been so placed, the owner or occupier shall not receive his supply of water for domestic purposes except by means of the meter, unless the Board consents to its removal or to the supply of water to a part of the land otherwise than by means of the meter.

The Board may charge for the use of a meter the prescribed rent, together with the cost of fixing, removing, repairing, or replacing the meter and its fittings whenever necessary.

(2.) All water which (or, if a minimum amount is prescribed as payable in every case, all water which being in excess of the prescribed quantity) passes through a meter shall be paid for by the owner or occupier at the prescribed price.

54. An owner or occupier of land supplied with water shall not use in connection with such water any fitting or sanitary convenience other than such as is prescribed or authorised; and it shall not be arranged in a mode different from that prescribed or authorised. Prescribed fittings only to be used. 53 Vic. No. 9, s. 39.

Every fitting or sanitary convenience arranged or attached in contravention of this section shall become the property of the Board, and may be seized and removed by an authorised officer.

Repairing fittings.
53 Vic. No. 9,
s. 37.

55. Every person supplied with water shall keep all pipes and fittings in or upon his land in good repair, so as effectually to prevent the water from running to waste and the collection therein of unwholesome matter.

Notice of intention to connect or disconnect fittings.
53 Vic. No. 9,
s. 38.

56. No person shall—

(a) Connect a fitting with any other fitting; or

(b) Disconnect a fitting from any other fitting

through which water is or is intended to be supplied, unless he has given to the Board not less than twenty-four hours' notice in writing of his intention so to do, and has obtained the permission of the Board.

Protection of fittings.
53 Vic. No. 9,
s. 41.

57. (1.) No person, unless authorised by the Board, shall remove, alter, repair, renew, or uncover any fitting which is the property of the Board.

(2.) Fittings, whether the property of the Board or not, shall not be subject or liable to be seized or taken in execution by process of law or under distress for rent.

(3.) Fittings which are not the property of the Board shall not be removed, altered, repaired, or renewed until the prescribed notice has been given to the Board, and the permission of the Board has been obtained.

When water may be cut off.
53 Vic. No. 9,
ss. 23, 27, 50.

58. (1.) The Board may, upon giving at least forty-eight hours' notice in writing of its intention so to do, or in any case of emergency without notice, cut off the water supply when—

(a) The land is unoccupied; or

(b) Any rates or any moneys due for water or fittings or drainage apparatus supplied have remained unpaid for thirty days after they became due; or

(c) Any fitting used there in connection with the supply is out of repair; or

(d) Any person supplied with water is guilty of any offence against any provision of this Act relating to the waste, misuse, undue consumption, fouling, or contamination of water; or

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- (e) Entry upon the land is refused to an authorised officer at any reasonable time where admission is claimed for any of the purposes of this Act, or such officer is obstructed in doing any act by this Act authorised to be done.

When the land is again occupied, or all the rates and moneys due have been paid, or this Act is being duly complied with, the water supply shall, on demand made in writing by the owner or occupier of the land, be restored.

Cutting off the water shall be a cumulative remedy for enforcing payment of rates or moneys due or the repair of fittings, and shall not relieve the owner or occupier from liability in respect of them.

- (2.) When any moneys due under an agreement for the supply of water have remained unpaid as aforesaid, the Board may also cancel the agreement on the ground of such non-payment.

Where price under agreement unpaid.

The remedy given by this subsection shall be in addition to any other remedy to which the Board is entitled.

PART V.—SEWERAGE AND DRAINAGE.

Division I.—Drainage Areas.

PART V.—
SEWERAGE
AND
DRAINAGE.
*Division I.—
Drainage
Areas.*

59. To enable the Board to carry out by instalments a comprehensive scheme for the drainage and sewerage of the District, in accordance with the moneys from time to time at the disposal of the Board, the Governor in Council may from time to time, by Order in Council—

Constitution of Drainage Areas.

- (a) Constitute a Drainage Area or Drainage Areas comprising lands situated within the District with such boundaries as he thinks proper ;
(b) Alter the boundaries of any Drainage Area ;
(c) Join any two or more Drainage Areas with or without the addition of outlying land so as to constitute one Drainage Area.

60. (1.) All existing sewerage works within a Drainage Area vested in or under the control of a Local Authority, which, in the opinion of the Board, can be advantageously used in connection with the general sewerage scheme of the Board, and which are described in the Order in Council constituting the Drainage Area, shall, on and after a date to be fixed by such Order, without any assignment, transfer, or conveyance, be divested from the Local Authority, and shall vest in and be under the control of the Board.

Sewerage works vested in Board.

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AND
DRAINAGE.**

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Transfer of
powers, &c.,
from Local
Authorities
to Board.

(2.) On and after such date, within such Drainage Area, all the powers, rights, duties, liabilities, obligations, and property exercisable by, attaching to, or vested in such Local Authority under any Act, for purposes the same as or similar to those of this Act, shall pass to and be exclusively exercisable by and vested in the Board, and such Local Authority shall cease to have any such jurisdiction and to exercise any of such powers or be subject to any of such duties.

In any case in which it becomes expedient so to do, any date fixed by the Order in Council aforesaid may be extended to a later date by another Order in Council, and in such case the provisions of this section shall be construed as having reference to the later date so fixed.

Adjustment.

(3.) In every case the Governor in Council may, whenever necessary, finally and conclusively determine and adjust, as between the Board and any such Local Authority, all questions and matters requiring to be adjusted, including the question whether any works are or are not sewerage works, and also the amount of any debt due or incurred by such Local Authority to the Treasurer or on debentures in respect of sewerage works so as to exonerate such Local Authority from such debt; and if such debt was incurred by debentures may provide for and secure, in such manner as he thinks just, the due redemption thereof by the Board at maturity, and the payment of interest accruing thereon in the meantime.

**Maps of
drainage
areas.**

61. On the constitution of a Drainage Area, the Board shall cause to be made a map thereof, on such scale and with such indications of levels and particulars of sewers, drains, and other works as the Board thinks expedient, and shall cause such map to be from time to time revised, and such additions made thereto as will show the new sewers, drains, and works, and the date of every revision shall be expressed therein.

Every such map shall be kept at the office of the Board, and the same or a copy thereof shall be open to inspection.

*Division
II.—General
Powers and
Duties.*

Division II.—General Powers and Duties.

62. The Board shall—

- (a) Have exclusively the power to make sewers within a Drainage Area for the purposes of this Act;
- (b) Keep in repair all sewers and drains vested in it;

Maintenance,
making, and
cleansing of
sewers.

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SEWERAGE
AND
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II.—General
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Duties.*

- (c) Cause all its sewers and drains to be constructed, covered, ventilated, and kept so as not to be a nuisance or injurious to health, and to be properly cleared, cleansed, flushed, and emptied.

63. It shall not be lawful, upon land within a Drainage Area which is so situated as not to admit of being drained by gravitation into an existing sewer, to erect any building to be used wholly or in part as a dwelling-house, or to adapt any building to be used wholly or in part as a dwelling-house, except with the permission in writing of the Board and subject to and in accordance with such By-laws as the Board may from time to time prescribe with reference to the erection of buildings on such land.

Dwelling-houses on low-lying land.
64 Vic. No. 9, s. 45.

64. No structure shall be erected or placed in, over, or under any sewer vested in the Board without the previous permission in writing of the Board.

Structures not to be erected in, over, or under sewers.

If any structure is erected or placed contrary to this provision, the Board may demolish and remove the same, and perform any works necessary for restoring or reinstating the sewer, and the person erecting or placing such structure and the person who has directed the work to be done shall jointly and severally be liable for the expenses incurred thereby.

65. No gully or ventilating shaft immediately connected with or appertaining to any sewer vested in the Board shall be trapped, covered, or closed up by any Local Authority without previous notice in writing being given to the Board, nor if the Board or an authorised officer within one week after the receipt of such notice expresses in writing its or his objection to the proposed work.

No gully or ventilating shaft connected with sewer to be trapped without consent.

Division III.—Sewered Premises.

*Division
III.—
Sewered
Premises.*

66. (1.) The Board shall from time to time after a sewer has been laid in any land or road or part of a road cause a general notice to be given as hereinafter mentioned that the Board has made provision for carrying off the sewage of each premises which, or any part of which, is comprised in or is adjacent to such land or abuts on such road or part of a road, and is situated within three hundred feet of such sewer.

General notice when lands and roads are sewered.

After such time as shall be fixed by the Board, each and every premises which, or any part of which, is comprised in or is adjacent to such land or abuts on

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SEWERAGE
AND
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*Division
III.—
Sewered
Premises.*

such road or part of a road, and is situated within three hundred feet of such sewer, shall be deemed to be sewered premises within the meaning of this Act.

For the purposes of this section in any such general notice the outer boundaries of the locality within which any such sewers have been laid need only be described.

(2.) The general notice shall be given by public placards posted up on such land or in the road or part of road in question, and shall be advertised in the *Gazette* and at least once a week for four successive weeks in a newspaper, and shall be in form number two of the Fifth Schedule to this Act, or to the like effect.

Schedule V.,
f. 2.

Further
general
notice.

67. (1.) The Board may, by a further general notice order that the owner of each and every sewered premises, if there are any buildings on such premises, shall, within such time as shall be specified in such further notice or within such further time as the Board may allow, provide such proper sanitary conveniences, drains, and drainage apparatus connected with such sewer or sewers of the Board as may be prescribed.

In any further general notice, the name of the road on which such premises or part thereof abut shall be specified.

(2.) In fixing or allowing such time or further time, the Board shall have regard to all the circumstances of each case, so that each owner shall have a reasonable opportunity of complying with the requirements of such notice.

(3.) The further general notice shall be given by serving the same on the owner of the sewered premises, and shall be in form number three of the Fifth Schedule to this Act, or to the like effect.

Schedule V.,
f. 3.

Sewered
premises.

68. Every premises, whether or not situated or abutting as aforesaid, which is connected with any sewer of the Board shall be deemed to be sewered premises.

Local
Authority to
be notified.

69. A copy of every such general notice and further general notice shall be posted by the Board to the Local Authority having jurisdiction in the locality in question.

Owners to
submit plans,
&c.

70. (1.) Within one month after a date to be specified in the said further general notice, or within such further time as the Board may, either before or after the expiration of such one month, allow, the owner of each and every

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SEWERAGE
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III.—
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Premises.

sewered premises shall, if there are any buildings on such premises—

- (i.) Submit to the Board a plan for providing such premises with such sanitary conveniences and such drains and drainage apparatus, to be fitted and laid in such manner as may be prescribed by the By-laws, with such variations (if any) from such By-laws as the Board, on written application made to it, may in writing approve;

In this case the Board may approve such plan or make such alterations therein or modifications thereof as to the Board seems proper; or

- (ii.) Submit to the Board a plan as aforesaid, and in writing request the Board to give an estimate of the expense of executing the work in accordance with such plan;

In this case the Board may approve such plan, or make such alterations therein or modifications thereof as to the Board seems proper, and the Board shall give an estimate of the expense of executing the work in accordance with such plan as so approved or as so altered or modified; or

- (iii.) In writing request the Board to prepare a plan as aforesaid; or
- (iv.) In writing request the Board to prepare a plan as aforesaid, and give an estimate of the expense of executing the work in accordance with the plan so prepared.

(2.) The Board shall, as soon as conveniently may be, approve of such plan, with or without alterations or modifications, or comply with any of the aforesaid requests, and shall thereupon notify to the owner such approval or compliance, as the case may be; and at the same time or at any time thereafter the Board may by notice in writing order such owner, within one month from the giving of such notice, or within such further time as the Board may allow, to execute the work in accordance with the plan so approved or prepared as aforesaid.

(3.) Any owner may, within fourteen days from such order as aforesaid, or within such further time as the Board may allow, request the Board in writing to execute the work at the expense of such owner, either for the estimated amount or at actual cost.

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(4.) If any owner fails or neglects within the limited time to submit any plan and to make any request as aforesaid he shall be deemed to have requested the Board to prepare a plan and give an estimate of the expense of executing the work in accordance with the plan so prepared.

(5.) The expense of preparing any plan or giving any estimate as aforesaid shall be fixed by the Board, and shall be borne by the owner, and shall be paid by him upon being notified that the Board has prepared such plan or made such estimate.

Board to
maintain
certain works.

71. Whenever the Board carries out the work hereinbefore mentioned, the Board shall, at its own expense, keep and maintain the same in good repair for a period of twelve months from the time of completing the work, unless the necessity for such repair is caused by the wilful act or negligence of the owner or occupier.

Inspection
may be made
and
alterations
ordered.

72. The Board may cause the work hereinbefore mentioned to be inspected while in progress, and from time to time during its execution an authorised officer may, in writing, order such reasonable alterations therein or additions thereto as to such officer seem necessary.

Drainage of
group of
premises.

73. (1.) If it appears to the Board that a group or block of premises, whether contiguous, adjacent, detached, or semi-detached, should be drained in combination, and a sewer of sufficient size already exists, or is about to be constructed within a reasonable distance not exceeding three hundred feet (which shall be prescribed by the Board) of any part of such group or block, the Board may order that such group or block shall be drained by a combined operation.

Upon notices being given by the Board to the owners of such premises that provision has been made for carrying off the sewage of each such premises, then each such premises shall be deemed to be sewered premises within the meaning of this Act, and this Act shall apply to such premises in the same manner as if the same comprised or was adjacent to land or abutted on a road in which a sewer of the Board had been laid.

Construction
of private
drains.

74. (1.) No person shall connect any drain with any sewer of the Board without the previous approval in writing of the Board.

Any person may, with such approval, at his own expense, connect any drain with any sewer of the Board, or any part thereof, which is so far completed as to be ready for use:

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Provided that such drain is of such size, materials, and other conditions, and is connected with such sewer and ventilated in such manner and form in all respects, as the Board directs.

Any person who contravenes this subsection shall be liable to a penalty not exceeding fifty pounds; and the Board may, at the expense of the offender, cut off the connection between such drain and the sewer, or, if it sees fit, execute the necessary works for making the said drain conformable to its directions.

(2.) Every person intending to connect any drain with a sewer of the Board shall, seven clear days before commencing the work, make written application to the Board, accompanied by a plan showing such particulars as are required by any By-law or resolution of the Board.

Seven days' notice to be given.

No such work shall be commenced until the approval in writing of the Board has been given.

No such work shall be proceeded with or executed except under the immediate direction of an authorised officer.

(3.) When it is desired by any person to abandon either wholly or in part, or to alter, any design for a drain previously approved by the Board as herein provided, notice in writing of such desire shall be given by him to the Board, accompanied by a plan showing the nature of the abandonment or alteration desired.

Abandonment, alteration, &c., of design for approved drain.

No such abandonment or alteration of such design shall be made without the previous approval in writing of the Board.

No person shall abandon wholly or in part, or alter in construction, any drain approved by the Board without the previous approval in writing of the Board.

(4.) If any drain approved by the Board as hereinbefore provided is not constructed within twelve months from the date of such approval, the works for the construction of such drain shall not be executed without a fresh written approval of the Board, to be applied for and obtained in manner hereinbefore provided with respect to the original approval.

If drain not constructed within twelve months, fresh approval to be applied.

(5.) The Board may agree with the owner of any land that any drain required to be made or altered by such owner shall be made or altered by the Board, and the cost as certified by an authorised officer shall be repaid to the Board by the owner so agreeing.

Board may do the work.

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DRAINAGE.

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Premises.*

(6.) For the purposes of this section the term “person” or “owner” shall include a statutory corporation holding land on behalf of the Crown, and any Local Authority, and any public or private corporation.

Cesspools, &c., to be closed.

75. The Board may give notice to the owner of any sewered premises to disinfect, empty, cleanse, fill in, and close, to the satisfaction of the Board, all cesspools and septic tanks used in connection with such premises.

Drains, &c., to be cleansed.

76. Every drain which communicates with any sewer of the Board, and all drainage apparatus and sanitary conveniences connected therewith, shall from time to time be repaired and cleansed under the inspection and direction of an authorised officer at the expense of the occupier of the land drained.

When, in the opinion of such officer, any of such works require repairing or cleansing, he may give notice in writing to the occupier, requiring him to do what may be necessary to effect such repair or cleansing within such time as is specified in such notice, or to request the Board in writing within such time as is specified in such notice, to do such work at his expense.

Nothing in this section shall be construed to affect the rights or liabilities of occupiers and owners as between themselves with respect to the renewal or repair of drains, drainage apparatus, or sanitary conveniences, or the cleansing thereof; and in the absence of any agreement to the contrary, where any occupier incurs or pays any expense under this section with respect to any of these things, and such expense has been occasioned by reason of any structural defect in such drain, drainage apparatus, or sanitary convenience, such occupier shall be entitled to recover the amount thereof from the owner as a debt, and, in addition to any other remedy, may deduct such amount from any rent accrued or accruing due by him to the owner.

Filling up low-lying land.
84 Vic. No. 9,
s. 44.

77. Where any land which is sewered premises within the meaning of this Act is so low-lying as not to admit of being drained by gravitation into a sewer, the Board may give notice to the owner or occupier or both of such persons to fill up such land within a time limited by the notice, so that the same may be so drained.

New buildings to have drains, &c., approved by Board.

78. (1.) It shall not be lawful upon any sewered premises to erect any building or to rebuild any building which has been pulled down to or below the floor commonly called the ground floor (hereinafter referred to as “the

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SEWERAGE
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lowest floor”), or to occupy any building so newly built or rebuilt unless the prescribed drain, drainage apparatus, and sanitary conveniences are constructed and provided to the satisfaction of the Board.

(2.) Such drain, drainage apparatus, and sanitary conveniences shall be constructed of such materials of such size and at such level and with such fall as the Board directs, and such drain shall lead from such building, or the intended site of such building, to a sewer of the Board.

(3.) Whenever any such building is rebuilt, the level of the lowest floor thereof shall be raised sufficiently to allow of the construction of the prescribed drain and drainage apparatus; and for that purpose the levels shall be taken and determined under the direction of an authorised officer.

(4.) Any person who causes any building to be erected or rebuilt, or any drain to be constructed, in contravention of this section shall be liable to a penalty not exceeding fifty pounds.

79. Where, under a lease, a lessee has the right to remove buildings at the end of his term, he shall not be entitled to remove the same or any part thereof, unless—

Restriction on
right of lessee
to remove
buildings.

- (a) He first pays to the lessor or to the Board all the expense and interest paid by or payable under this Act by the lessor in respect of any works constructed by or at the cost of such lessor for the purpose of the buildings so removed; or
- (b) The removal of the buildings, or such portion thereof as is removed, is effected without injury to such works.

PART VI.—WATER AND SEWERAGE FUND.

PART VI.—
WATER AND
SEWERAGE
FUND.

80. All moneys received or recovered by or on behalf of the Board shall be carried to the account of a fund to be called the “Water and Sewerage Fund,” and such fund shall be applied—

Revenue, how
applied.
53 Vic. No. 9,
ss. 83, 84.

- (a) In the payment of any instalments due in respect of any loan advanced or deemed to have been advanced by the Treasurer under this Act;

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FUND.

Metropolitan Water and Sewerage. 9 EDW. VII. No. 12,

(b) In the construction, maintenance, renewal, management, and control of the works, including all preliminary and incidental expenses, and in the conduct of the business of the Board, and otherwise for the purposes of this Act, including any sum due under an agreement lawfully made for the purposes of this Act and any sum recovered against the Board by process of law and any sum which by any order made or purporting to be made under this Act the Board is directed to pay by way of compensation, damages, costs, penalties, or otherwise.

Any unexpended balance may be applied, if the Treasurer so permits, in reduction of any sums owing to the Treasurer under this Act.

PART VII.—
LOANS.

Existing
loan.

PART VII.—LOANS.

81. (1.) Whereas under "*The Local Works Loans Acts Amendment Act of 1899*,"* the sum of four hundred and seventy-seven thousand four hundred and thirty pounds four shillings and two pence, being loan moneys owing to the Treasurer on the first day of July, one thousand eight hundred and ninety-nine, by the Brisbane Board of Waterworks, was deemed to be a loan bearing interest at the rate of four pounds per centum per annum advanced on that date for a period of thirty-two years, and such loan was under the said Act to be liquidated by the payment to the Treasurer by the said Board on the first days of January and July, respectively, in every year of a sum equal to two pounds fifteen shillings and eleven pence half-penny for every one hundred pounds of the said loan until the total amount of the said loan, together with the interest accruing thereon, had been so paid, and whereas under the said Act the said Board has duly made the prescribed payments to the Treasurer in part liquidation of the said loan, and whereas the sum of three hundred and eighty thousand three hundred and sixteen pounds fifteen shillings and eight pence or thereabouts will, on the first day of January, one thousand nine hundred and ten, be owing as principal money in respect of the said loan, it is hereby declared and enacted that the said sum of three hundred and eighty thousand three hundred and sixteen pounds fifteen shillings and eight pence shall be deemed to

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LOANS.

be a loan bearing interest at the rate of four pounds per centum per annum, advanced by the Treasurer to the Metropolitan Water and Sewerage Board for a period of fifty years, commencing the first day of January, one thousand nine hundred and ten, and shall be liquidated by it by the payment to the Treasurer on the first days of July and January, respectively, in every year of a sum equal to two pounds six shillings and seven pence for every one hundred pounds of the said loan, and such sums shall continue to be payable until the total amount of the said loan together with the interest accruing thereon have been so paid.

82. (1.) Subject to this Act, the Treasurer may from Future loans. time to time advance to the Board out of any moneys appropriated by Parliament for that purpose such sums of money on loan as are required for the carrying out or construction of any works which under this Act the Board is or may be authorised to carry out or construct.

(2.) Every such loan shall be for a period of fifty years from the date of the first advance in respect thereof, and shall bear interest at the rate of four pounds per centum per annum, and shall be liquidated by the payment to the Treasurer by the Board on the first days of January and July, respectively, in every year of a sum equal to two pounds six shillings and seven pence for every one hundred pounds of the said loan, and such sums shall continue to be payable until the total amount of the said loan together with the interest accruing thereon have been so paid.

(3.) In each case the loan shall be advanced by instalments as the works are constructed to the satisfaction of the Treasurer.

83. Notwithstanding anything in this Act con- Adjustments by Treasurer. tained, the Treasurer may, from time to time—

- (a) Make any adjustment which he considers necessary to be made with respect to the term or terms of any loan or loans to the Board, or the calculation of interest thereon, or with respect to any other matter requiring adjustment;
- (b) Permit the Board to pay off the whole or any Prepayments of loan moneys. portion of the moneys advanced at any time before they become due, and in such case the Board shall be entitled to a proportionate rebate of interest to be adjusted by the Treasurer.

PART VII.—
LOANS.*Metropolitan Water and Sewerage.* 9 EDW. VII. No. 12,Half-yearly
statement of
arrears to be
published.

84. (1.) In the months of February and August respectively in every year, the Treasurer shall cause to be published in the *Gazette* a statement showing, with respect to the Board, the amount of money which is then overdue and in arrear, and also the total of the principal sum then remaining unpaid.

Power to
enforce the
payment of
arrears.

(2.) If thereafter on the thirtieth day of April or the thirty-first day of October respectively any part of such money so overdue and in arrear remains unpaid, the Treasurer may, by notification in the *Gazette*, appoint a Receiver to collect on his behalf and pay to the Treasury all or any moneys from time to time due and owing to the Board to the amount stated in such notification.

Thereupon such Receiver shall, from the date stated in such notification, until the amount aforesaid has been collected, be the only person legally entitled to receive the revenues of the Board, and shall have all the powers of the Board with respect to the levy, collection, and recovery of rates and other moneys, and shall be deemed for the purposes of this section to be a public accountant within the meaning of "*The Audit Act of 1874*"* or any Act amending or in substitution for that Act.

Board may
obtain bank
overdraft.

85. For the temporary accommodation of the Board, it may obtain advances by overdraft of current account in any bank or banks upon the credit of the Water and Sewerage Fund, but so that the principal moneys owing on overdraft do not at any time exceed the sum of fifty thousand pounds.

PART VIII.—
RATES.

PART VIII.—RATES.

Power to
levy rates.

86. The Board may make and levy water rates and sewerage rates.

*Water Rates.*Lands subject
to water rates
when main
laid before
this Act.
53 Vic. No. 9,
s. 52.

87. (1.) Water rates may be made and levied in respect of all lands, whether actually occupied or not, which abut upon or have direct access to or from any road in the District, in which, before the commencement of this Act, a main pipe has been laid down from which the Board is prepared to supply water to the lands, and which lands are within three hundred feet of such main pipe.

Water rates
to be payable
when main
laid down and
notice given.

(2.) When a main pipe is laid down in a road after the commencement of this Act, the Board shall publish in some newspaper a notice that such main pipe has been so laid down, and that the Board is prepared to

* 38 Vic. No. 12, *supra*, page 18.

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supply water to the lands abutting upon or having direct access to or from such road and which are within three hundred feet of the main pipe; and after the expiration of fourteen days from such publication water rates may be made in respect of such lands.

(3.) Water rates may be made and levied in respect of all such lands as aforesaid, whether the land is rateable land under the Local Authorities Act or not.

Rates leviable on all property.

88. The Board shall define by By-laws the basis upon which water rates shall be assessed:

Basis of water rating.
5 Edw. VII.
No. 23, s. 3.

Provided that—

- (i.) One basis may be fixed in respect of some lands, and another basis may be fixed in respect of other lands, but the amount of rate in respect of vacant land shall be less than the amount of rate in respect of land which is actually occupied;
- (ii.) In respect of land which is not rateable under the Local Authorities Act, the basis shall always be the total superficial area of the floors measured externally in the buildings, if any, erected thereon; the rate may nevertheless vary in respect of different classes of such land, and the proportion of the rate to such superficial area need not be the same as in the case of lands which are rateable under the Local Authorities Act and are assessed on that basis;
- (iii.) Where a rate is assessed on the basis of the total superficial area of the floors measured as aforesaid in the buildings erected on the land, the By-laws may provide for a reduction of the rate in respect of any excess beyond certain specified areas;
- (iv.) The By-laws may, in respect of any land which is rateable under the Local Authorities Act, fix a minimum amount of rate which shall be payable in respect of such land, irrespective of the basis on which the rate is assessed.

Sewerage Rates.

89. (1.) Sewerage rates may be made and levied in respect of all lands, whether actually occupied or not, which are sewerage premises within the meaning of this Act, although the lands are not actually connected with a sewer.

Sewerage rates.

(2.) Sewerage rates may be made and levied in respect of all such lands as aforesaid, whether the land is rateable land under the Local Authorities Act or not.

Basis of
sewerage
rating.

90. The Board shall define by By-laws the basis upon which sewerage rates shall be assessed :

Provided that—

- (i.) One basis may be fixed in respect of some lands and another basis may be fixed in respect of other lands, but the amount of rate in respect of vacant land shall be less than the amount of rate in respect of land which is actually occupied ;
- (ii.) In respect of land which is not rateable under the Local Authorities Act the basis shall always be the uses to which the buildings, if any, erected on the land are put ;
- (iii.) The By-laws may, in respect of any land which is rateable under the Local Authorities Act, fix a minimum amount of rate which shall be payable in respect of such land, irrespective of the basis on which the rate is assessed.

Assessment of Rateable Value.

Rateable land.

91. (1.) When rates are assessed in proportion to the value of the land, the value for the purposes of this Act shall be the value as ascertained by the valuations of the Local Authorities within whose Areas the lands are situated.

Assessment to
be compiled
from
rate-books.

(2.) The Board shall, accordingly, as early as may be in each year, from the valuations for the preceding year of the Local Authorities concerned, compile a valuation list for the purposes of this Act of the value of all lands which are rateable under this Act and the rates in respect of which are to be assessed in proportion to the value of the land ; and notice of the making of the list shall be forthwith published in the *Gazette* and in some newspaper.

How long in
force.

(3.) Immediately upon such publication the valuation shall be deemed to have been in force from the first day of January then last past, and shall continue and be in force until the last day of December next following.

Book.

(4.) The valuation shall be written in a book prepared for the purpose.

Board to have
access to local
rate-books.

(5.) An authorised officer shall be entitled as of right, at all reasonable times, to inspect free of charge all valuations, lists, and rate-books then in use relating to any such land and all documents relating thereto, and may, free of charge, make and take copies of or extracts from them.

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All persons having the custody of such valuations, lists, or rate-books, or documents shall, at all reasonable times and without fee, afford to all such officers free access to such valuations, lists, rate-books, and documents.

Notice of Rates—Appeal.

92. Forthwith after a rate has been made, the Board shall serve on each owner or occupier of land who is liable to pay such rate a notice containing particulars of the rate made and to be collected in respect of such land, the time allowed for paying the rate, and the consequence of not paying the same within such time.

Particulars of rates to be delivered to owner or occupier. 53 Vic. No. 9, s. 54.

93. (1.) If any person thinks himself aggrieved by the amount of any rate of which notice is served on him, he may, at any time within one month after receiving the notice, appeal against the rate to the justices in some court of petty sessions held at North Brisbane; but no such appeal shall be entertained unless at least seven days' notice thereof in writing is given by the aggrieved party to the Board.

Appeal for error in amount of rate. 53 Vic. No. 9, ss. 55, 56.

(2.) At the sessions for which the notice is given, or any adjournment thereof, the justices present shall hear and determine all objections to the rate on the ground of error in the amount, but no other objection, and shall have power to amend the amount of the rate, and their decision shall be final upon all questions of fact determined by them.

Rate-Books.

94. Every rate shall be fairly transcribed in a book, to be called the "Rate-Book," to be kept for that purpose, which shall be in form number four of the Fifth Schedule to this Act, or as near thereto as the circumstances of the case will permit.

Form of "Rate-Book." Schedule V., f. 4. 53 Vic. No. 9, s. 57.

Every such rate-book shall contain an account of every particular set forth at the head of the respective columns so far as they can be ascertained and are applicable, and shall be signed by the President and secretary.

The rate-book shall be open to inspection.

95. The Board may from time to time amend any rate-book by inserting therein the name of any person claiming and entitled or liable to have his name inserted therein as owner or occupier or by inserting the name of any person who ought to have been rated, or by striking out the name of any person who ought not to have been rated, or by raising or reducing the sum at which any

Rate-book may be amended by the Board. 53 Vic. No. 9, s. 58.

person has been rated, if such person has been underrated or overrated, or by making such other amendments as will make the rate conformable to this Act.

No such amendment shall be held to avoid the rate. But no amendment in a rate-book shall be valid unless it is initialled by the chairman at a meeting of the Board at which the amendment is made, with the date of such amendment :

Provided that—

- (i.) Every person aggrieved by any such amendment shall have the same right of appeal therefrom as he has under this Act with respect to rates ; and
- (ii.) Every person with respect to whom the rate is amended shall be entitled to receive at least thirty days' notice of such amendment before the rate shall be payable by him.

Payment of Rates.

Rates, &c.,
when payable.
53 Vic. No. 9,
s. 64.

96. Rates shall be payable in respect of the period which begins on the first day of the month next following the day on which they first become payable, as hereinbefore provided.

The first payment shall be made in respect of the period between that day and the thirtieth day of June or thirty-first day of December next following.

Thereafter the rates shall be payable half-yearly in advance on every first day of January and first day of July, according to the scale in force at the time when such payments respectively fall due.

When owner
to pay rates
and when
occupier.
53 Vic. No. 9,
s. 65.

97. (1.) The owner shall be liable to pay all rates in respect of vacant land, and in respect of all occupied land of which the annual rental value does not exceed twenty pounds.

In other cases the occupier shall pay the rates.

(2.) For the purposes of this section the owner and occupier of any occupied land, or either of them, shall, when required so to do by an authorised officer, furnish a return truly stating the amount of the annual rental value of such land.

(3.) But this section shall not invalidate or affect any contract as between owner and occupier under which other provision is made for payment of rates by an owner or occupier.

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98. When premises in the separate occupation of several persons are supplied with water by one common pipe or set of fittings, whether for water supply or for sewage purposes, the several owners or occupiers of such premises shall be liable to the payment of the same rates as they would have been liable to if each had received the supply from a separate pipe or fittings.

When several premises supplied by one pipe, each to pay. 53 Vic. No. 9, s. 66.

99. (1.) When rates for the payment of which the owner is liable (whether under this Act or by contract or otherwise) are in arrear, the Board may give notice in writing to the occupier (if any) to pay the rates, and the occupier shall thereupon become liable to pay the same, and the Board shall have and may exercise against him all the remedies which it has against an occupier who is liable for the payment of rates in the first instance.

Remedies against tenant where owner liable, and his remedies over.

(2.) When the rates for which the owner is liable are required from and paid by the occupier, the occupier may set off the amount so paid against any rent due from him to the owner.

If when the rates are so paid no rent is due, or if the amount of the rates so paid exceeds the amount of rent due, the occupier may either set off the amount so paid or the amount of the excess against accruing rent or recover it or part of it by action as for money paid, with full costs as between solicitor and client.

But if the goods of the occupier have been subjected to distress and sale for the satisfaction of the rates, then he may recover from the owner double the amount of the appraised value of his goods so distrained and sold, with such costs as aforesaid.

(3.) A tenant who pays rates for a period extending beyond his term shall be entitled to recover from his landlord the amount so paid, with such costs as aforesaid.

(4.) The receipt of the Board for such rates shall be a discharge of the rent and conclusive evidence of the payment thereof to the amount specified in the receipt.

Recovery of Rates, &c.

100. (1.) Money due for rates shall be a debt due to the Board, and payment thereof may be recovered by summary proceedings before two justices on the complaint of the President or secretary, or by action in any court of competent jurisdiction.

Recovery of rates. 53 Vic. No. 9, s. 7. 5 Edw. VII. No. 23, s. 5.

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From the owner or occupier for the time being.

(2.) Subject to this Act, money due for rates shall be a debt due by the owner or occupier of the land for the time being, notwithstanding that he was not the owner or occupier at the time when the rates became due, and shall also be a debt due by the person primarily liable to pay the same under this Act.

Distress.

(3.) Instead of proceeding under the foregoing provisions of this section, the Board may recover any such money by distress in manner following, that is to say—

Warrant and scale. Schedule V., ff. 5, 6.

If any such money is due and unpaid for thirty days after demand made in writing by the secretary or an authorised officer, or by post letter sent to the occupier, the President may issue his warrant, in form number five of the Fifth Schedule to this Act, or to the like effect, for levying the amount with costs, according to the scale set forth in form number six of the said Schedule, by distress and sale of the goods and chattels found on the premises.

Timber may be seized for rates in arrear.

101. When rates due in respect of any vacant land are unpaid and in arrear, any timber lying thereon may be distrained and sold, and for that purpose may be removed.

Rates to be apportioned on the occupier, &c., quitting. 53 Vic. No. 9, s. 79.

102. When an occupier or owner ceases to be the occupier or owner of the land in respect whereof a rate is made before the end of the period in respect of which the rate was made as between the outgoing and the incoming occupiers or owners, the outgoing occupier or owner shall be liable to pay a portion only of the rate payable for the whole of such period proportionate to the time during which he continued to be the occupier or owner, and the incoming occupier or owner shall be liable to pay a portion of the rate in proportion to the time during which he is the occupier or owner.

But the rate made in respect of the land shall continue in force, and payment of it may be enforced against the occupier or owner for the time being as if no change had taken place in the occupation or ownership.

Persons liable may be resorted to in succession. 53 Vic. No. 9, s. 80.

103. An unsatisfied judgment or order of any court for the recovery of any rates from any person shall not be a bar to the recovery thereof from any other persons liable under this Act to the payment thereof.

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104. When rates or other moneys due to the Board under this Act in respect of any land are in arrear for a period of four years, the Board may cause to be published three times in the *Gazette* and in some newspaper a notice in form number seven of the Fifth Schedule to this Act, or to the like effect.

Lands may be let when rates are in arrear. Sch. V., f. 7. 53 Vic. No. 9, s. 82.

If, after six months from the last publication of the notice, any part of the rates or other moneys due at the time of the first publication thereof is still unpaid, the Board may take possession of such land and let it from year to year, or for any term not exceeding seven years, and may receive the rents and profits and apply them towards the payment of the rates and any other moneys as aforesaid, and costs and expenses, and the surplus (if any) shall be paid to the Local Authority of the Area in which the land is situated towards the discharge of any rates (including any interest) due or accruing due on the land under the Local Authorities Act, and the balance (if any) shall be held for the owner of the land.

Land so taken possession of by the Board shall become and continue to be rateable land within the meaning and for the purposes of the Local Authorities Act.

105. Whenever any land has been sold in pursuance of the Local Authorities Act for the non-payment of local rates and any residue of the proceeds of such sale remains in the hands of the Registrar of the District Court after payment of the moneys prescribed by that Act to be paid, then, upon receipt by such Registrar of a certificate under the hand of the President that a certain specified amount is due to the Board for arrears of rates or other moneys under this Act in respect of such land, such Registrar shall forthwith pay over to the Board such residue or so much thereof as is sufficient to meet the claim of the Board, and the balance only, if any, of such residue shall belong to such persons as would if no sale had taken place have been entitled to receive the rents and profits of the land.

Recovery of rates charged on land sold by Local Authority. 2 Edw. VII. No. 14, s. 9.

106. The Board may, if it sees fit, allow to any person liable to pay any rates or any sum due in respect of water supplied by measure or under agreement or otherwise, who pays the whole of such amount within thirty days after notice given to him of such liability, a percentage by way of discount not exceeding ten per cent.

Discount for prompt payment of rates, &c. 5 Edw. VII. No. 23, s. 7.

PART IX.—ACCOUNTS AND AUDIT.

Books of
account and
inspection by
persons
interested.
53 Vic. No. 9,
ss. 95, 103.

107. (1.) The Board shall cause books to be provided, and true and regular accounts to be entered therein of all moneys received and paid on account of the business of the Board, and of the several purposes for which such moneys are received and paid.

The Board shall cause the cash books to be balanced once at least in every month, and all other books of account at least half-yearly.

Such books shall be open to inspection.

(2.) The Auditor-General may from time to time make rules with respect to all or any of the following matters, namely:—

- (i.) The form and manner in which the books of account of the Board shall be kept;
- (ii.) The banking of moneys received by or on behalf of the Board, and the authentication by the bank of deposits made therein by or on behalf of or to the credit of the Board;
- (iii.) The terms and conditions on which arrears of rates and other moneys no longer recoverable may be written off;
- (iv.) The duties of the President, secretary, and auditor as to the verification of rates and other moneys in arrear at the date of the audit;
- (v.) The duties of the auditor in connection with the audit and examination of the accounts;
- (vi.) Generally, for the execution of this Part of this Act.

All such rules shall be published in the *Gazette*, and shall thereupon have the same effect as if they were enacted in this Act, and shall be judicially noticed, and shall not be questioned in any proceedings whatsoever.

Appointment
of auditors.

108. The Minister, on the recommendation of the Auditor-General, may from time to time appoint some person holding a certificate of competency from the Local Auditors Board appointed under the Local Authorities Act, or some officer of the Department of the Auditor-General, to be the auditor for the Board.

The auditor for the Board shall be paid out of the Water and Sewerage Fund such remuneration as the Minister on the like recommendation may fix:

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Provided that when an officer of the Department of the Auditor-General is appointed to be the auditor the amount fixed as his remuneration shall be paid by the Board to the Treasurer.

109. (1.) The auditor for the Board shall, once at least in every year, examine the accounts of the Board. Yearly audit. 53 Vic. No. 9, s. 96.

(2.) The secretary shall produce and lay before the auditor the accounts so balanced as aforesaid, with all vouchers in support of the same, and all books, papers, and writings, in the custody of the Board relating thereto.

(3.) If the auditor, after due inquiry, is satisfied that all moneys received have been duly accounted for, and that all payments charged have been duly authorised and made, he shall sign the accounts in token of his allowance thereof, but if he disapproves of any part of the accounts he may disallow any parts of the accounts so disapproved of.

(4.) Any person interested in the accounts, either as a creditor of the Board or as a ratepayer, or any person acting on behalf of a creditor or ratepayer, may be present at the audit of the accounts, and may make any objection in writing, signed by such person or his agent, to any part of such accounts. Person interested may be present.

110. (1.) The accounts of the Board, so balanced and audited as aforesaid, and either allowed or disallowed by the auditor, together with any written objections made by ratepayers or creditors, shall be produced at the first ordinary meeting of the Board after such audit, or at some adjournment thereof, at which meeting any person who has made any such objection may be heard in support of it. Examination and settlement of accounts.

(2.) The accounts shall be then finally examined and settled by the Board, and if the same are found just and true they shall be allowed by the Board and certified accordingly under the hand of the chairman at such meeting

(3.) After such accounts have been so allowed and signed by such chairman, and also by the auditor as hereinbefore provided, the same shall, subject to the certificate of the Auditor-General with respect to any contravention of this Act or any misapplication of money, as hereinafter provided, be final as against all persons whomsoever.

111. (1.) A statement showing the financial position of the Board, as at the end of December in each year, shall be prepared by the secretary and laid before the Financial statement.

Board at its first ordinary meeting after the twenty-first day of January in the succeeding year.

To be
examined and
accepted.

(2.) Such statement shall contain an account of all moneys received and moneys paid by the Board during the preceding year, and a statement of all rates made and contracts entered into during such year, and of all assets and liabilities of the Board.

Statement to
be printed,
&c.

(3.) Every such statement shall be signed by the secretary and sealed with the seal of the Board, and shall be printed and remain open to inspection and to comparison with the books and documents relating thereto in the possession of the Board.

Right to a
copy.

(4.) The secretary shall, on demand, give to any person a copy of the statement on payment of the sum of one shilling therefor.

Person may
object.

(5.) Any ratepayer or creditor of the Board may object in writing to any part of the accounts referred to in the statement.

Statement of
accounts to
be published.

(6.) The Board shall in every year cause such statement to be published in the *Gazette* and in some newspaper.

Power of
auditor to
compel
discovery.

112. For the purpose of any examination the auditor may take evidence upon oath (which oath the auditor is hereby empowered to administer), and may by summons, under his hand, require all such persons as he thinks proper to appear personally before him, at a time and place to be fixed by such summons, and to produce to him all such books and papers as appear necessary for such examination.

Any person so required who—

- (i.) Without just excuse, neglects or refuses to comply with the tenour of the summons; or,
- (ii.) Having appeared before the auditor, refuses, without just excuse, to be examined on oath concerning the premises or to take such oath; or,
- (iii.) Having taken such oath, refuses without just excuse to answer such questions concerning the premises as are put to him,

shall and may be dealt with by the auditor in the same manner in all respects in which, by any Act in force for the time being relating to justices, persons so refusing or neglecting in cases in which justices have summary jurisdiction may be dealt with.

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113. (1.) The auditor shall forthwith, after the examination of the accounts, report the result to the Auditor-General. Report of auditor.

If it appears to the Auditor-General that the said accounts or any part thereof ought to be disallowed as being contrary to this Act, he shall certify accordingly to the Treasurer.

Such auditor, before any adverse report, shall, by public notice or otherwise, as may seem to him reasonable, appoint a time and place for hearing such explanations as may be offered by or on behalf of the Board or any member thereof.

If it appears to the Auditor-General that any money forming part of the Water and Sewerage Fund, or any other fund under the control of the Board, has been wilfully or corruptly misapplied to purposes to which it was not lawfully applicable, or that any member has wilfully, or by culpable negligence, misapplied or connived at or concurred in the misapplication of such money, he shall certify accordingly to the Treasurer.

(2.) Within three months from the date of such certificate, the Governor in Council may, by Order in Council, wholly or in part confirm or disallow such certificate.

(3.) The Auditor-General, before certifying as aforesaid, shall give notice that he will, by himself or his officer, receive and consider such explanations as may be offered by or on behalf of the Board or any member thereof, and he or his officer shall receive and consider such explanations accordingly. Auditor-General to hear explanations.

(4.) Every such Order of confirmation shall be conclusive evidence for all purposes whatsoever, of the fact of the misapplication of the moneys therein mentioned, of the amount so misapplied, and of the liability of the member or members named in such Order as having so misapplied the same or connived at the misapplication thereof to pay the same.

(5.) Any sum of money mentioned in any such Order as having been so misapplied may be recovered in any court of competent jurisdiction, together with full costs of the action, including costs as between solicitor and client, from any one or more of the members mentioned in such Order as liable to pay the same, at the suit of the Board, or at the suit of any ratepayer or creditor of the Board. Proceedings on Order.

(6.) Any sum of money so recovered shall be paid into the Water and Sewerage Fund, or other fund from which the amount sued for was improperly taken. Destination of moneys recovered.

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Special audit.

114. The Minister may, at any time, appoint a special auditor or special auditors to examine the accounts of the Board for any period fixed by the Minister. In every such case the auditor or auditors so appointed shall have the like powers, duties, and authorities as the auditor appointed for the Board under this Act; and the following provisions of this Part of this Act, so far as the same are applicable, shall be observed, namely:—Sections one hundred and nine except subsection one thereof, one hundred and twelve, and one hundred and thirteen. The costs and expenses of every special audit, including the amount of the remuneration of the special auditor or auditors fixed by the Minister, shall be borne by the Board.

PART X.—
OFFENCES.

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Unqualified
member
acting.

115. Any person who acts as a member of the Board without being duly qualified, or after he has become disqualified, shall be liable to a penalty not exceeding fifty pounds.

Officers
exactng or
accepting fees.
53 Vic. No. 9,
s. 132; 2 Edw.
VII. No. 19,
s. 50.

116. Every officer or servant employed by the Board who—

- (a) Exact or accepts, on account of anything done by virtue of his office, or in relation to any matter to be done under this Act, any fee or reward, other than the salary, wages, or allowance allowed by the Board; or
- (b) Is anywise concerned or interested in any bargain or contract made by the Board;

shall be incapable of being afterwards employed by the Board for a period of five years, and shall forfeit the sum of one hundred pounds.

The Board or any ratepayer may sue for such sum by action in any court of competent jurisdiction.

Any such sum recovered, after payment to the plaintiff of the full costs of the action, including costs as between solicitor and client, shall be paid into the Water and Sewerage Fund.

Refusing to
give up
possession of
works.
53 Vic. No. 9,
s. 136.

117. Any person having charge of any works, the property of the Board, who refuses, on lawful demand, to give up peaceable and quiet possession of the same to any person entitled to possession, shall be liable to a penalty not exceeding one hundred pounds.

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118. Any person who, without the authority of the Board, and within any water reserve or catchment area under the control of the Board or within the District or such lesser area as may be defined by the Governor in Council by Order in Council—

Diverting water, or diminishing supply or injuring it.

- (a) Takes, diverts, or intercepts water from any stream, watercourse, or source of supply; or
- (b) Does any act whereby any such water is or is likely to be diverted or diminished in quantity, or injured in quality or purity;

and does not, on being required by notice from the Board, immediately restore everything to the state in which it was before such act, shall be liable to a daily penalty not exceeding five pounds for every day during which the water is taken, diverted, intercepted, diminished, or injured after such notice.

119.—

- (i.) Any owner or occupier of land supplied with water who—

Using unauthorised fittings, &c. 53 Vic. No. 9, ss. 43, 44.

- (a) With intent that water may be taken in a manner not authorised, uses in, places upon or attaches to the land any fitting or thing not authorised; or
 - (b) Alters, misuses, injures, or, except for the purpose of necessary repair, removes any authorised fitting; or
 - (c) Wilfully or negligently causes any fitting, drainage apparatus, or sanitary convenience, used in connection with the water supplied to be out of repair without repairing it within a reasonable time, or to be so used or contrived that the water supplied is or is likely to be wasted, misused, unduly consumed, or contaminated, or so as to allow the return of foul air or any noisome or impure matter into any fitting;
- (ii.) Any person who without the authority of the Board (the proof of which shall be upon him)—

Injury to fittings, &c.

- (a) Wilfully or carelessly breaks, injures, opens, or shuts, or otherwise interferes with, any authorised fitting or any work belonging to the Board; or
- (b) Flushes or draws off the water from the reservoirs or other works of the Board; or

- (c) Does any other wilful act whereby such water is wasted; or
- (d) Not being entitled to a supply of water, wrongfully takes water from any source of supply; or
- (e) Uses or consumes, in contravention of this Act, any water belonging to the Board;

Wrongful use
of water.

(iii.) Any person who—

- (a) Not being entitled to a supply of water for purposes other than domestic purposes, uses water supplied for purposes other than domestic purposes or the extinguishment of fire; or
- (b) Being entitled to a supply of water for purposes other than domestic purposes, uses water supplied for purposes other than those authorised or the extinguishment of fire; or
- (c) Being entitled to a supply of water for any purposes, uses water supplied elsewhere than on or in the land to which such water is supplied, save for the extinguishment of fire;

shall be liable to a penalty not exceeding ten pounds, and in addition to a daily penalty not exceeding forty shillings for each day on which the offence is committed after notice by the Board.

Fouling
water.
53 Vic. No. 9,
s. 46.

120. Any person who—

- (a) Bathes in or enters any stream, reservoir, or other part of the works, or any water supplying or flowing into the same or any part thereof (other than the River Brisbane and its tributaries), or washes in, throws into, or causes to enter therein any person, dog, or other animal; or
- (b) Throws or deposits any rubbish, carcass, dust, filth, or any other noisome thing into or in any stream, reservoir, or other part of the works, or any water supplying or flowing into the same or any part thereof, or any source of supply, or into the River Brisbane or any of its tributaries above any dam or reservoir or the site of any pumping station or point of intake, or washes or cleanses in any such water any mineral, or cloth, wool, or leather, or the skin of any animal, or any other thing; or

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- (c) Throws or causes to flow or fall into any stream or watercourse within the District any refuse, filth, dirt, grease, decomposed substance, or any poisonous, noxious, offensive, or unwholesome matter; or
- (d) Causes the water of a sink, sewer, drain, engine or boiler, or other filthy or unwholesome water, or any washing or other substance produced in making or supplying gas, or any liquid other than wholesome water, to run or be conveyed into any stream, reservoir, or other part of the works, or any water supplying or flowing into the same or any part thereof, or does any act connected with the making or supplying of gas or otherwise whereby the supply of water to the consumers is or is likely to be contaminated;

shall be liable to a penalty not exceeding fifty pounds, and in addition to a daily penalty not exceeding five pounds for each day on which the offence is committed after notice by the Board.

121. Every owner or occupier of land intersected or bounded by any stream or watercourse, or through or near to which any channel or drain is cut by the Board, who unlawfully obstructs or in any manner unlawfully interferes with the water or flow of water therein, shall be liable to a penalty not exceeding fifty pounds, and in addition to a daily penalty not exceeding five pounds for each day on which the offence is committed after notice by the Board.

Obstructing
flow, &c.
55 Vic. No. 11,
s. 165.

122. Any person who—

- (a) Opens any ground so as to uncover or expose any pipe or fitting or drainage apparatus, the property of or under the control of the Board, without having given to the Board the prescribed notice of his intention so to do; or
- (b) Wilfully or negligently breaks or injures or opens any pipe or fitting or drainage apparatus, the property of or under the control of the Board; or
- (c) Unlawfully breaks or tampers with any seal of any private fire service;

shall be liable to a penalty not exceeding twenty pounds.

Interfering
with sewers.

123. (1.) Any person who, without the authority of the Board (the proof of which shall be upon him)—

- (a) Takes up, removes, demolishes, or otherwise interferes with any sewer or drain of the Board; or
- (b) Wilfully damages any sewerage work or thing the property of the Board, or does any act by which the sewerage or drainage of the District or any part thereof may be obstructed or injured; or
- (c) Knowingly erects or places any structure or any obstruction, annoyance, or encroachment in, upon, over, or under any sewer or drain of the Board; or
- (d) Obstructs, fills in, or diverts any sewer or drain of the Board;

shall be liable to a penalty not exceeding fifty pounds, and in addition to a daily penalty not exceeding five pounds for each day on which such offence is committed after notice by the Board.

(2.) Nothing herein contained shall extend to prevent or impede the maintenance, repair, or renewal of any structure under which a sewer or drain has been constructed, but so nevertheless that the same does not injure or obstruct the sewer or drain.

(3.) The Board may, at the expense of the offender, cause any structure erected in contravention of this section to be altered, pulled down, or otherwise dealt with as it thinks fit.

124. Any person who—

- (a) Sweeps, rakes, or places any house refuse, soil, rubbish, or filth, or any other thing into or in any sewer or drain of the Board, or over or contiguous to any grate communicating with any such sewer or drain, or into any dock or inlet communicating with the mouth of any such sewer or drain, or into which any such sewer or drain may discharge its contents, or into the River Brisbane contiguous thereto; or
- (b) Turns or causes to enter into any sewer or septic tank of the Board or any drain communicating therewith any chemical refuse, or any waste steam, condensing water, heated water, or other liquid (such water or other liquid being of a higher temperature than one hundred and ten

Depositing
dirt, chemical
refuse, &c.,
into sewers,
&c.
64 Vic. No. 9,
s. 49.

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degrees of Fahrenheit), which, either alone or in combination with the sewage, causes a nuisance or is injurious to health, or any trade refuse from any tannery, brewery, chemical works, or other industrial operations which is by the By-laws prohibited from being turned into the works of the Board;

shall be liable to a penalty not exceeding ten pounds, and in addition to a daily penalty not exceeding forty shillings for each day on which such offence is committed after notice by the Board.

125. Any person who, having received permission to connect a drain with any sewer of the Board, neglects to repair or cleanse such drain according to the directions of an authorised officer, or wilfully allows any other person not having the permission of the Board to use any such drain or any branch into the same, shall be liable to a penalty not exceeding twenty pounds.

Offence as to
drain.

And the Board may cut off from its sewer the private drain.

126. Except as is herein otherwise provided, any person who wilfully—

Obstructing
execution of
Act.

- (a) Obstructs, hinders, resists, or in any wise opposes the Board, or any member thereof, or any person appointed, employed, or authorised under this Act, or any person appointed by the Governor in Council, or the Minister, in the performance of anything which it or he is respectively empowered or required to do by this Act; or
- (b) Destroys, pulls down, removes, injures, or defaces any board, placard, or notice put up or published by authority of the Board; or
- (c) Destroys, pulls up, or removes any surveyor's mark, pole, or stake, or defaces or destroys any work fixed, driven, or made for the purpose of any survey, level, or line of any land or work under this Act;

55 Vic. No.
11, s. 164.
2 Edw. VII.
No. 19, s. 398.

shall be liable to a penalty not exceeding twenty pounds, and in addition to a daily penalty not exceeding forty shillings for each day on which any such offence is committed after notice by the Board.

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Not
permitting
inspection, &c.
55 Vic. No. 11,
s. 105.

127. Any person who—

- (a) Having the custody of a valuation list, rate-book, account-book, or other document which an authorised officer is entitled to inspect, wilfully neglects or refuses to permit such officer to inspect the same free of charge, or to make and take free of charge copies or extracts from the same, within two days after a demand in writing and such authority has been produced and shown to him or a copy thereof left at his office or usual place of abode; or
- (b) Refuses to make any return or furnish any statement to the Board or an authorised officer which he is bound to make or furnish under this Act, or wilfully omits to make or furnish it within seven days after being so required, or makes or furnishes a false return or statement;

shall be liable to a penalty not exceeding twenty pounds.

Entry by
owner, &c., to
execute work.
2 Edw. VII.
No. 19, s. 394.

128. (1.) Any owner and his servants, workmen, and agents may, for the purpose of complying with any notice or order served or made on him in pursuance of this Act in respect of any land or structure, after giving at least forty-eight hours' notice to the occupier thereof, and on production of the notice or order, enter and from time to time without further notice re-enter such land or structure, and do all necessary works and things therein, thereto, or in connection therewith.

Obstruction
by occupier.

(2.) If the occupier of any land prevents the owner thereof from carrying into effect this Act, any justice to whom application is made in that behalf shall, by order in writing, require such occupier to permit the execution of any works required to be executed, if the same appear to such justice to be necessary for carrying into effect this Act; and if within forty-eight hours after the making of the order such occupier fails to comply therewith, he shall be liable to a daily penalty not exceeding five pounds.

Every such owner shall, after the making of such order, be discharged from any penalties to which he had otherwise become liable by reason of his default in carrying into effect this Act.

(3.) Any occupier of any land who, when requested by an authorised officer to state the name of the owner of such land or of the person receiving or authorised to

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receive the rent, refuses or wilfully omits to disclose or wilfully misstates the name shall be liable to a penalty not exceeding five pounds.

129. Any person who does not comply with the order of the Board or an authorised officer to execute any work which under this Act the Board or any such officer is authorised to direct shall be liable to a penalty not exceeding twenty pounds, and in addition to a daily penalty not exceeding forty shillings for every day on which such non-compliance continues after conviction.

130. Where anything is by this Act, or by any direction, order, or notice made under the authority of this Act, directed to be done or forbidden to be done, or where any authority is given to the Board or any of its officers to direct or to forbid anything to be done, and such act so directed to be done remains undone, or such act so forbidden to be done is done, in every such case the person making default as to such direction and prohibition respectively shall be guilty of an offence against this Act.

131. Any person guilty of an offence against this Act for which no penalty is specifically provided shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding forty shillings for each day on which such offence is continued after notice by the Board.

132. All penalties and forfeitures incurred under this Act may be recovered in a summary way, before any two justices, on the complaint of the secretary or an authorised officer, or, if the Board or any of its members or officers, or any person authorised by it, is the offender, on the complaint of the party aggrieved.

133. Every penalty imposed by this Act in respect of any offence may be recovered from the person actually committing the offence, or from the person in whose employment he is and on whose behalf or for whose benefit he is acting, or (where under this Act it is the duty of any person to abstain from any act, or where any person has lawfully the authority to prevent any act or default) from the person wilfully permitting any act or default, or from all or some of such persons; and for the purposes of this Act all such persons shall be deemed to have done the act or made the omission complained of or caused the same to be done or made.

Saving of
other
proceedings.

134. (1.) Any penalty imposed upon or recovered from any person under this Act shall be without prejudice to the right of the Board to recover from such person—

- (a) Any sum for damage sustained by it through his act or default ;
- (b) The expenses incurred by it in remedying any such damage ;
- (c) The value of any water wasted, misused, contaminated, unduly consumed, or unlawfully diverted, intercepted, or taken by him.

All such sums may, at the option of the Board or its prosecuting officer, be recovered in the same proceeding by which the penalty is sought to be recovered, or in another proceeding by complaint or action.

(2.) The payment of any such penalty shall not bar or affect the right of the Board to bring any action or to take any proceeding against such person or any other person liable.

(3.) The Board may, if in its opinion summary proceedings would afford an inadequate remedy, cause any proceedings to be taken against any person in the Supreme Court to enforce the abatement or prohibition of any nuisance or to enforce compliance with any order made under this Act, or for the recovery of any penalties or expenses from or for the punishment of any persons offending against this Act.

(4.) And generally the provisions of this Act relating to nuisances by whomsoever to be observed shall be deemed to be in addition to and not to abridge or affect any right, remedy, or proceeding under any other Act or at common law.

Duty of police
officers.
61 Vic. No. 15,
s. 27.

135. It shall be the duty of every police officer who finds any person committing an offence against this Act to demand from such person his name and place of abode, and to report the fact of such breach and the name and place of abode of such person, as soon as conveniently may be, to the secretary.

Any person who refuses to state his name and place of abode when required by a police officer so to do, or who in his opinion states a false name or place of abode, may, without any other warrant than this Act, be apprehended by him and taken before justices, there to be dealt with according to law.

Any person who refuses to state his name and place of abode, or states a false name or place of abode, shall be liable to a penalty not exceeding five pounds.

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Any police officer who finds any person committing an offence against this Act may, without any other warrant than this Act, apprehend such person and take him before justices, there to be dealt with according to law.

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Division I.—General.

136. (1.) The Governor in Council may, from time to time, make all such Orders in Council as he thinks fit for the further or more effectually or particularly carrying out the objects and purposes of this Act, and for facilitating proof of any document or matter, and for extending periods of time, and for curing irregularities and substituting new for lost or destroyed documents, and for prescribing the powers and duties of officers of the State appointed for the purposes of this Act.

(2.) Such Orders may be of general application, or refer to certain classes of cases, or to any particular cases.

(3.) The generality of this section shall not be qualified or affected by any provision of this Act giving power to make Orders with regard to any subject-matter in such provision specified.

(4.) All Orders in Council made under this Act, when published in the *Gazette*, shall be of the same force and effect as if contained in this Act, and shall not be questioned in any proceeding whatsoever.

(5.) The Governor in Council may, by another Order in Council, amend or rescind any Order in Council made under this Act.

(6.) No misnomer or inaccurate description or omission contained in any such Order in Council shall in anywise prevent or abridge the operation of this Act with respect to the subject of such description, provided the same is designated so as to be understood.

(7.) No Order in Council, purporting to be made under this Act, and, being within the powers conferred on the Governor in Council, shall be deemed invalid on account of any non-compliance with any of the matters required by this Act as preliminary to the same.

137. When the name of an owner of any land is not known to the Board, it shall be sufficient for all purposes of this Act to describe him by the designation of "the owner" of the land in question, without stating his name.

Owner where
name not
known.
53 Vic. No. 9,
s. 59.

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GENERAL
PROVISIONS.

Metropolitan Water and Sewerage. 9 Edw. VII. No. 12,

*Division I.—
General.*

Continued
operation of
notices and
orders.

138. All notices and orders required under this Act to be served on any owner or occupier shall, if due service thereof has been once made on any owner or occupier, be binding on all persons claiming by, from, or under such owner or occupier to the same extent as if such order or notice had been served on such last-mentioned persons respectively.

Remedies for
moneys due.

139. (1.) Where water is supplied by measure or under agreement to any land and the owner of such land is not the person supplied with such water, he shall nevertheless be liable to pay to the Board in respect of such supply the minimum amount, if any, fixed by the Board or under such agreement as payable for such supply; and such amount shall be deemed to be debt due by him.

(2.) Money due in respect of water supplied by measure or under agreement to any land or in respect of any fittings or drainage apparatus or other chattels supplied by the Board to any land, or in respect of works executed by the Board on any land, shall, to the extent to which an owner is liable and without prejudice to any other rights of the Board, be deemed to be a debt due to the Board by the owner of the land for the time being, notwithstanding that he was not the owner at the time when the money became due; and shall also be a debt due by the person primarily liable to pay the money under this Act.

(3.) And the Board shall, without prejudice to any other proceeding or remedy, be entitled to exercise the same remedies for the recovery of all such money as it may exercise under this Act for the recovery of rates.

Board may
act for person
in default.

140. Whenever by this Act the Board is empowered to give to any owner or occupier of land notice requiring him within any specified time to carry out or provide any works, matters, or things on or in connection with the land, and such owner or occupier has not within the limited time complied with such notice (or, if he may request the Board to comply therewith on his behalf, has not duly made such request), then the Board may, subsequently to or in lieu of taking any proceedings against such owner or occupier for such non-compliance, enter upon the land and carry out and provide, on behalf of and at the expense of such owner or occupier, the works, matters, or things in which he has made default.

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General.Apportion-
ment of joint
liability.

141. When two or more persons are or may be directed by the Board to do or join in doing any act, or to pay or join in paying any sum of money, or when the Board may permit two or more persons to join in doing any act or paying any sum of money, the Board may, if it thinks fit, apportion the matter to be done or the sum of money to be paid between such persons in such manner as the Board considers just.

142. Notwithstanding anything contained in any Act, the Board shall have power and authority to enter into any contract or arrangement with the State or the Commonwealth for the supply of water or for sewerage works or services, and may receive payment in pursuance thereof.

Arrangements
with
Government.*Division II.—Compensation.*Division
II.—
Compensa-
tion.

143. Except as by this Act is otherwise provided, if any person sustains any damage by reason of the exercise by or on behalf of the Board of any of the powers conferred by this Act, in relation to any matter as to which he is not himself in default, full compensation shall be made to such person by the Board.

Compensation
in case of
damage.
2 Edw. VII.
No. 19, s. 390.

144. Any compensation payable by the Board to any person by reason of the exercise of any powers conferred by this Act (except the taking of land under and subject to the Public Works Land Resumption Act) shall be such sum as may be agreed upon by and between the parties, or as, in the case of dispute, may be fixed by a police magistrate upon summons.

Compensation
payable, how
to be fixed.
2 Edw. VII.
No. 19, s. 391.

Every police magistrate shall have jurisdiction to hear and determine the matter of such dispute, and to grant such costs as, in his opinion, are just and reasonable.

Any party may appeal to a District Court from the whole or any part of an order of a police magistrate under this section.

Every such appeal shall be by way of rehearing, and shall be heard and determined in the same manner, including the right to a jury, as if the matter of such dispute had been brought before the District Court in the first instance.

Division
III.—
Powers for
Execution of
Act.*Division III.—Powers for Execution of Act.*

145. (1.) An authorised officer, with such attendants as he thinks fit, shall have power, without notice, to enter at all reasonable times and as often as may be deemed necessary upon any road or land for the purpose of generally

Entry.
2 Edw. VII.
No. 19, s. 392.

enforcing and executing this Act; and in particular for—

- (a) Examining whether any of the provisions of this Act or any requisitions of any notice or order thereunder are being complied with or are being contravened; or
- (b) Making any plan or survey or taking levels; or
- (c) Executing, fixing, removing, replacing, renewing, substituting, altering, repairing, cleansing, or examining any work, fitting, drainage apparatus, or sanitary convenience; or
- (d) Making any inspection;

and may there carry out the necessary operations.

If such admission to any land is refused, any justice, on complaint by such officer (made after reasonable notice in writing of the intention to make it has been given to the occupier), may, by order under his hand, require the occupier to admit such officer.

Any such order made by a justice shall continue in force until the necessary purpose has been completed.

Any person who refuses to obey an order of a justice for the admission of such officer shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings.

(2.) The provisions of this section shall be in addition to and not in derogation of any powers of entry or for doing any act for any purpose authorised by this Act.

Notice of
action.
2 Edw. VII.
No. 19, s. 371.

146. An action shall not be brought against the Board or any member thereof, or any officer of the Board or person acting in his aid, for anything done or intended or omitted to be done under this Act, until the expiration of one month after notice in writing has been served on the Board, member, officer, or person, clearly stating the cause of action, and the name and place of abode of the intended plaintiff and of his solicitor or agent.

On the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action which is not stated in the notice so served.

Unless such notice is proved, the court shall find for the defendant.

Every such action shall be commenced within six months next after the accruing of the cause of action, and not afterwards.

Any person to whom any such notice of action is given may tender amends to the plaintiff, his solicitor, or

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Act.

agent at any time within one month after service of the notice, and, in case the same is not accepted, may plead such tender.

147. No matter or thing done and no contract entered into by the Board, and no matter or thing done by any officer of the Board, shall, if the matter or thing was done or the contract was entered into *boná fide* for the purpose of executing this Act, subject any member of the Board or any such officer to any personal liability in respect thereof; any expense incurred by any member or officer acting as last aforesaid shall be deemed to be an expense authorised by this Act.

Protection of
Board and
officers from
personal
liability.
2 Edw. VII.
No. 19, s. 372.

148. No justice shall be disabled from acting in any matter arising under this Act by reason only of his being a ratepayer, or by reason of his being a ratepayer of any Local Area within the District or interested in the concerns of the Board, or as one of any other class of person liable in common with the others to contribute to or be benefited by any rate or fund out of which any expenses under this Act are to be defrayed; but no justice shall be capable of acting in cases in which he is a member of the Board or of any Local Authority who or whose officer is a party to any litigation.

Justices may
act though
interested in
certain cases.*Division*
IV.—
*Expenses.**Division IV.—Expenses.*

149. (1.) In all cases in which under this Act the Board has provided any drain, drainage apparatus, or sanitary convenience pursuant to the requirement of any owner, or performs any work, matter, or thing on behalf of any owner or occupier, the expense thereof, with interest at the rate of five pounds per centum per annum, shall be recoverable from the owner or occupier, as the case may be, after the expiration of one month from the time when an authorised officer certifies in writing to the Board that the same have been provided or performed and the amount of such expense.

Board may
recover
expense of
works.

(2.) In all cases in which the Board has provided any drain, drainage apparatus, or sanitary convenience as aforesaid, the Board shall, at the request of the owner, accept payment of the expense thereof by twenty quarterly instalments, bearing interest on such portion as from time to time remains unpaid at the rate of five pounds per centum per annum.

Instalments.

Such request shall be made in writing, and signed by the owner, and lodged with the Board within one month from the time of such owner being notified, in writing,

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*Division
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by the Board of the amount of such expense. The first quarterly instalment shall be payable immediately on the expiration of the said month.

Notwithstanding anything contained in this section, the owner may at any time pay to the Board such portion as then remains unpaid of such expense, together with interest thereon at the said rate to the date of such payment.

On default
whole amount
unpaid to
become
payable.

(3.) In the event of any of the instalments or interest not being paid within fourteen days after the due date thereof, the whole amount then unpaid of the expense shall, if the Board so desires, become due, payable, and recoverable, with interest, as prescribed.

How
instalments
recoverable.

(4.) Payment of any such amount or of any instalment thereof and interest may be recovered in the manner provided by this Act for the recovery of rates.

Expenses
recoverable
in any court.

150. (1.) In addition to any other remedy provided by this Act, expenses recoverable by the Board from any person shall be recoverable in any court of competent jurisdiction.

Future
owners liable.

(2.) Expenses recoverable by the Board from any owner of land shall be recoverable, together with interest at the rate of five pounds per centum per annum, at any future time from any owner of the land.

Expenses
include
compensation.

(3.) Expenses recoverable by the Board in respect of the execution of works for or on behalf of any person shall include the amount of any compensation other than for negligence or misfeasance paid by the Board in respect of such works.

Powers of
trustees.

151. Any trustee being owner of any land may apply any of the funds under his control in defraying any charges, costs, and expenses necessarily or properly incurred by him under this Act as such owner.

Powers of
agents.

152. Any agent may deduct from any moneys held by him for his principal all charges, costs, and expenses necessarily or properly incurred and paid by him under this Act as owner within the meaning of this Act of any land for which he is the agent of such principal, or he may in any court of competent jurisdiction recover from such principal the amount so incurred and paid.

Powers of
Local
Authorities.

153. A Local Authority may apply out of its Local Fund all charges, costs, and expenses necessarily and properly incurred by such Local Authority under this Act, whether within or without its Area.

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PROVISIONS.Division
IV.—
Expenses.Expenses
to remain
charge upon
premises.

154. (1.) In addition to any remedy which the Board may have against any owner or occupier of land, all charges, costs, and expenses, and every instalment thereof, and interest which by this Act are made payable to the Board by the owner, or for which he is liable, shall, until payment, be and remain a first charge upon the land in priority to all mortgages, charges, liens, and encumbrances whatsoever, but subsequent to any rate payable to any Local Authority in respect of the land.

(2.) Whenever any such moneys have become a charge as aforesaid upon any land, and are in arrear for four years and upwards, it shall be lawful for the Board to serve on the owner and to publish for three consecutive weeks in the *Gazette*, and in three consecutive numbers of a newspaper, a notice specifying the land and the moneys charged thereon, and stating that if the same are not paid within six months from the first publication of such notice the Board will apply by petition to the Supreme Court for a sale of the land:

Provided that if any proprietor, mortgagee, encumbrancee, lessee, or trustee of any land has previously registered himself as such, by notice in writing sent by registered letter, in respect of any land, in the office of the Board (which registration the Board shall recognise and record), a like notice shall be served upon him. Such record as aforesaid shall be open to inspection by any ratepayer upon payment of a fee of two shillings and six pence.

(3.) If after six months from the first publication of such notice any part of the moneys due to the Board at the time of such first publication are still unpaid—

- (a) The Board may let the land or any part thereof from year to year or for any term not exceeding seven years, and may receive the rents and profits thereof and apply the same towards the payment of all moneys whatsoever from time to time due to the Board in respect of the land and the costs and expenses incurred, and hold any surplus in trust for the rightful owner of the land; and also
- (b) The Board may, by petition to the Supreme Court or a judge thereof, apply for a sale of the land or of so much thereof as is necessary to produce the amount so charged together with all sums since accrued due.

(4.) The Court or judge, on being satisfied by affidavit or otherwise that six months' notice of such petition has been served on the owner, and that the amount claimed in the notice is still due and was in arrear at the time of the first publication of such notice, and that all things required by this Act to be done by the Board have been done, shall order the sale of the said land or so much thereof as is sufficient to produce the amount due together with any subsequent sums accrued due in respect of the land up to the time of sale and all costs and expenses of and attending the proceedings and the sale of such land, and that the proceeds be paid into court.

(5.) The Court or judge shall order payment of any amount due for any rate made and levied by the Board, and then payable in respect of the land, and all amounts due to the Board to be first made out of the proceeds of sale, and the conveyance or transfer, as the case may be, shall be executed by the Registrar or such other officer of the Court as the Court or judge may direct to the purchaser, in the form approved by the Court or judge.

Such conveyance or transfer shall vest the land sold in the purchaser for an estate in fee-simple free from encumbrance, and in cases where the land is under "*The Real Property Acts, 1861 to 1897*,"* the purchaser shall be entitled to receive a certificate of title to the land.

The balance arising from the proceeds of such sale shall be subject to any orders of the Court, in the first place, for the payment of any rate made and levied by the Local Authority, and afterwards for the benefit of the parties interested therein.

155. If any owner is entitled to a less estate than an estate in fee-simple in the land, such owner or any person having any interest in the land may make application in a summary way to a judge of the Supreme Court sitting in Chambers to have the expenses which by this Act are made payable by the owner, or for which he is liable, apportioned between the persons interested in the land.

The judge shall apportion such expenses between such persons in such proportions as, having regard to the nature and extent of their interests, he deems just.

Thereupon such persons shall become liable to the owner for the proportions respectively assigned to them,

* 25 Vic. No. 14, *supra*, page 2148; 41 Vic. No. 18, *supra*, page 2196; 48 Vic. No. 4, *supra*, page 2206; and 51 Vic. No. 3, *supra*, page 2207.

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and if the owner has paid such expenses he may recover from each person liable to contribute under the order made by the judge the proportion payable by such person.

Upon the registration of such order with the secretary by lodging a copy thereof, such proportion shall until payment be and remain a charge (with interest at the rate of five pounds per centum per annum) upon such person's share and interest in the land in priority to all mortgages, charges, liens, and encumbrances whatsoever except rates as aforesaid.

A receipt signed by the person in whose favour such charge is made and attested by a justice, bank manager, solicitor, or solicitor's clerk, and lodged at the office of the secretary, shall be a sufficient discharge of such charge.

The secretary shall, in a book to be provided by the Board for the purpose, which book shall be open to inspection, keep, without fee, a record of all such copy orders and receipts lodged with him.

In any application under this section, the judge may make such order in regard to the payment of the costs of and incidental to the application as he deems just.

Rules may be made by the judges of the Supreme Court for defining the practice to be followed in making such applications; until such rules are made, the practice relating to summary applications in Chambers shall be observed.

Division V.—Evidence.

*Division V.—
Evidence.*

156. (1.) In any proceeding under this Act, it shall not be necessary for the complainant or plaintiff to prove the limits of the District or the limits of any water reserve, catchment area, or Drainage Area, or that any land is sewered premises within the meaning of this Act. But this provision shall not prejudice the right of any defendant to prove the facts.

District, &c.,
need not be
proved.

(2.) In any proceeding for an offence against this Act, the due appointment of all officers of the Board, and the authority of any officer to do any act or to institute such proceedings, shall be presumed until the contrary is proved.

Appointments
and authority
of officers
presumed.

(3.) The seal of the Board affixed to any document shall be judicially noticed, and, until the contrary is proved, it shall be presumed to have been properly affixed thereto.

Seal
judicially
noticed.

(4.) All books and documents made evidence under any of the Acts hereby repealed shall continue evidence to the same extent as if this Act had not been passed.

Evidence
under
repealed
Acts.

PART XI.—
GENERAL
PROVISIONS.

Metropolitan Water and Sewerage. 9 Edw. VII. No. 12,

Division V.—
Evidence.

Evidence of
appointment
of Deputy
President.

(5.) A minute made and authenticated in the prescribed manner of the appointment of any person as Deputy President shall, as regards all persons having any business with the Board, and acting in good faith, be deemed conclusive evidence of the validity of the appointment of such person as Deputy President, and of his continued authority to act as such, and shall relieve all persons having business as aforesaid from the necessity of making any inquiries in the matter.

Evidence of
entries.

(6.) Every entry in any book, purporting to be an entry relating to the proceedings of the Board or any committee thereof and to be duly signed, or a certified copy of or an extract from any such entry, sealed with the seal of the Board, and signed by the President and secretary, shall, upon the production thereof alone, be received as evidence of the proceedings appearing by such entry to have been taken, without proof of the meeting to which the same refers having been duly convened or held, or of the persons attending such meeting having been or being members of the Board or members of committee respectively, or of the signatures of the President or secretary, or of the fact of their having been President or secretary respectively; and all such last-mentioned matters shall be presumed until the contrary is proved.

By-laws.

(7.) A copy of the *Gazette* containing a notification of the approval of a By-law shall be sufficient evidence of the due making of such By-law and of the contents thereof, and that it is still in force until the contrary is shown.

Plans, &c.

(8.) In any proceeding the production of any map or plan purporting to be made by the Board or any officer thereof under this Act, and sealed with the seal of the Board, or purporting to be issued or published by any department of the Government or any officer thereof, shall be sufficient evidence of the matters stated or delineated thereon until the contrary is proved.

Copies of the plans, sections, specifications, and books of reference mentioned in this Act, and of any alteration or correction thereof, or extracts therefrom, certified by the engineer or an authorised officer to be true copies thereof (which certificates such officer shall give to all parties interested when required, on payment of such fees as are prescribed by the Board), shall be conclusive evidence of the contents thereof.

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*Metropolitan Water and Sewerage.*PART XI.—
GENERAL
PROVISIONS.*Division V.—
Evidence.*

(9.) All documents whatever purporting to be issued or written by or under the direction of the Board or the President, and purporting to be signed by the President or secretary, shall be received in evidence in all courts, and shall be deemed to be issued or written by or under the direction of the Board until the contrary is proved. The expression "documents" includes all orders, directions, and notices.

Documents signed by President, &c., to be admitted evidence.

(10.) The production in any court of a certificate of title, memorandum of transfer, or other instrument creating an interest in land, or of a duly certified copy thereof, shall be sufficient evidence that the person named therein as registered proprietor, or as entitled to such interest, is the owner of or person entitled to an interest in such land until the contrary is proved.

Presumption against registered proprietor.

(11.) The certificate in writing of the engineer or an authorised officer that any works, fittings, drainage apparatus, sanitary conveniences, matters, or things have been done or supplied by the Board pursuant to the requirement or for or on behalf of an owner or occupier shall be *prima facie* evidence of the facts therein stated, and as to the amount of the expense and interest recoverable in respect thereof.

Certificate of engineer.

(12.) The quantity of water shown by the index or register of an authorised meter to have passed through such meter shall be taken *prima facie* to be the quantity of water which has actually passed through the meter and been supplied.

Register of meters to be *prima facie* evidence.

A certificate under the hand of an authorised officer stating the quantity so shown shall, in any proceeding in which the quantity of water is in dispute, be *prima facie* evidence of the quantity of water supplied.

(13.) Whenever in any proceeding under this Act it becomes necessary to mention or refer to the owner or occupier of any land or premises, it shall be sufficient to designate him as the "owner" or "occupier" of such land or premises, without name or further description.

Reference to "owner" and "occupier."

(14.) Whenever it is shown that any water is or has been wrongfully taken or used or illegally diverted or taken on to or into land owned or occupied by any person, the taking or using or diversion of such water shall be deemed to have been effected by or by the direction of such person, unless such person satisfies the court that such taking or using or diversion of the water on to or into such land was effected without his direction or connivance.

Presumption when water diverted.

SCHEDULE I.

No. and Year of Act.	Title of Act.
34 Vic. No. 6 ...	An Act to Provide for the Construction of a Culvert or Waterway through and upon certain Crown Lands within the City of Brisbane
53 Vic. No. 9 ...	"The Brisbane Water Supply Act of 1889"
2 Edw. VII. No. 14...	"The Brisbane Water Supply Act Amendment Act of 1902"
5 Edw. VII. No. 23...	"The Brisbane Water Supply Amendment Act of 1905"

SCHEDULE II.

RULES TO BE OBSERVED AT ELECTIONS.

Presiding officer.

1. In these Rules the term "Presiding Officer" means the Returning Officer or other person appointed by him to preside and take the poll at any polling-place at an election under this Act, or the duly appointed substitute of either.

Not to be a candidate.

2. No person who acts as Returning Officer at an election shall be or become a candidate at such election.

Notice.

3. (i.) Twenty clear days before the day appointed for an election the Returning Officer shall give public notice of such election by advertisement in some newspaper.

(ii.) The notice shall specify a day, not less than ten nor more than twelve days after the publication of the notice, as the day of nomination, and shall require the candidates at such election to be nominated in manner hereinafter mentioned at some place within the District to be named in the notice.

Mode of nomination.

4. (i.) In order that a person may be or become a candidate at an election, he must be nominated by not less than five ratepayers entitled to vote in manner following, that is to say:—Before four o'clock after noon of the day preceding the day of nomination there shall be delivered to the Returning Officer, at the place appointed by the notice, who shall, if required give a receipt for the same, a nomination paper naming such person as a candidate at such election, and signed by the persons nominating him, in the following form:—

We, the undersigned ratepayers, hereby nominate [*stating christian name and surname*], of _____, for the office of member of the Water and Sewerage Board [*in the case of an extraordinary vacancy, add, in the place of A.B., deceased, or as the case may be.*]

Dated the _____ day of _____, 19 .

[*Here are to follow the Signatures.*]

Money deposit.

(ii.) Such person or some person on his behalf shall at the time of the delivery of such nomination paper pay to the Returning Officer, in sterling money or Treasury notes, the sum of ten pounds, to be dealt with as herein provided.

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(iii.) No person who is not so nominated, or by or for whom or on whose behalf such payment is not made, shall be or be deemed to be a candidate at the election :

Provided that no nomination paper shall be rejected for any mere formal defect or error therein, if the Returning Officer is satisfied that the provisions of this Act have been substantially complied with.

(iv.) If the Returning Officer is satisfied that the provisions of this Act with respect to a nomination paper have been substantially complied with, he shall make and sign at the foot of the nomination paper a certificate in the form following, or to the like effect :—

I, the undersigned Returning Officer at and for the above named election, do hereby certify that I received this nomination at [name of place where received], this of 19 , and that the provisions of "The Metropolitan Water and Sewerage Act of 1909" with respect to it have been complied with.

Certificate of
Returning
Officer.

(Signed) A.B.,
Returning Officer.

But no such certificate shall be construed to qualify any person to be a candidate or to sign the nomination paper who is not qualified to be a candidate or to sign the same, or to validate any signature thereto which is false or forged.

5. The Returning Officer shall at all times, between the hours of nine o'clock in the forenoon and four o'clock in the afternoon upon each day between the giving of the public notice of an election and the day of nomination named therein, keep posted, outside the place appointed for the delivery of nomination papers, the names of all persons who have already become candidates at such election.

Returning
Officer to post
names of
candidates.

6. Every person who—

- (i.) Procures himself to be nominated as a candidate for the office of member knowing himself to be under this Act incapable of being or continuing a member ; or
- (ii.) Knowingly signs a nomination paper nominating or purporting to nominate as a candidate for such office a person incapable of being or continuing a member ; or
- (iii.) Knowing that he is not a ratepayer, signs a nomination paper nominating or purporting to nominate any person as a candidate at such election ;

Nomination
of
incapacitated
persons.

shall be liable to a penalty not exceeding fifty pounds.

7. If the number of persons who are duly nominated as candidates at any election does not exceed the number of members to be elected, the Returning Officer shall, at noon on the day of nomination, and at the place appointed for the delivery of nomination papers, publicly declare such candidate or candidates to be duly elected, and he or they shall be elected accordingly.

Result if only
number to be
elected
nominated.

8. (i.) If the number of persons who are duly nominated, as candidates exceeds the number of members to be elected, then for deciding between such candidates a poll shall be taken in manner hereinafter provided.

Result if
more
nominated
than to be
elected.

(ii.) The Returning Officer shall, at noon on the day of nomination, and at the place appointed for the delivery of nomination papers, publicly announce the names of the persons who have been duly nominated as candidates.

(iii.) He shall also then publicly announce the polling-places at which the poll will be taken.

(iv.) The Returning Officer shall also in all cases forthwith give public notice by advertisement in some newspaper stating the names of the candidates and the day on which the poll will be taken, and naming also the polling-places at which the poll will be taken.

SCHEDULE II.

Metropolitan Water and Sewerage. 9 EDW. VII. No. 12,

Governor in Council may appoint member when none elected.

9. If at the time prescribed or appointed for holding an election no election is held, or no candidates are nominated, or the number of candidates nominated is less than the number of members to be elected, the Governor in Council may appoint a sufficient number of ratepayers to be members of the Board to fill the vacancies which ought to be filled at such election, and the ratepayers so appointed shall be deemed to have been duly elected at such election.

Candidate may retire.

10. If after a poll has been appointed to be taken a candidate desires to retire from his candidature, he may, not less than ninety-six hours before the hour for commencing the poll, sign and deliver to the Returning Officer, or to the secretary, who shall forthwith deliver it to the Returning Officer, a notice in the following form or to the like effect:—

I [A.B.] do hereby retire from being a candidate for election at the ensuing election of a member of the Water and Sewerage Board.

Dated this day of , 19 . (Signed) A.B.

Witness—
C.D.

The Returning Officer, on receipt of such notice, shall omit the name of the person so retiring from the ballot-papers to be used at the election; or, if any of such papers have been printed, shall erase his name therefrom, and shall make known as publicly as possible, by advertisement or otherwise, the fact of his retirement.

The person so retiring shall not be capable of being elected at the election, and if the number of candidates is by his retirement reduced to the number of members to be elected at the election, then the Returning Officer shall, as soon as conveniently may be, declare the remaining candidate or candidates to be duly elected.

Poll, how taken.

11. When a poll is required to be taken, it shall be taken by ballot.

Appointment of polling-places.

12. (i.) For the purposes of every election, the Returning Officer shall from time to time appoint polling-places within the District. No polling-place shall be appointed or abolished after the day succeeding the day of nomination.

(ii.) No polling-place shall be appointed in a house or place licensed or registered for the sale of fermented or spirituous liquors.

Duration of poll.

13. When a poll is taken, it shall commence at eight o'clock in the forenoon and close at six o'clock in the afternoon.

Polling-booths, &c.

14. At an election the Returning Officer shall—

(i.) Cause booths to be erected or rooms to be provided and used as such booths at the several polling-places;

(ii.) Cause to be furnished for use at each booth or polling-place a copy of the voters' roll, certified under his hand to be a true copy.

Scrutineers.

15. Each candidate may appoint one person to be his scrutineer at each booth or polling-place in use at the election; and every person so appointed a scrutineer shall, upon his appointment, make and subscribe a solemn declaration, in the presence of the presiding officer, in the following form:—

I, A.B., a scrutineer appointed by , a candidate for election to the Water and Sewerage Board, do hereby solemnly declare that I will faithfully assist at such election, and that I will not attempt to improperly discover, or by any word or action directly or indirectly aid in discovering, the person for whom any vote is given; and that I will keep secret all knowledge of the person for whom any vote is given, which I may obtain in the exercise of my office, unless in answer to any question which I am legally bound to answer.

Declared before me this day of 19 . } A.B.
Returning Officer or Presiding Officer.

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16. (i.) The Returning Officer may preside at one polling-place, and shall by writing under his hand appoint presiding officers to take the poll at the polling-places, or at the polling-places other than the polling-places at which he himself presides, and shall supply a copy of the voters' roll, certified by him under his hand, to each presiding officer. Presiding officers.

(ii.) When a larger number of voters is likely to vote at a polling-place than can conveniently vote in the same polling-booth, the Returning Officer may appoint two or more polling-booths at that polling-place, and shall in such case appoint presiding officers to take the poll at the polling-booths, or the polling booths other than the polling-booth at which he himself presides. Several polling-booths at same polling-place.

All provisions relating to presiding officers shall apply to presiding officers presiding at such polling-booths.

(iii.) The Returning Officer, and each presiding officer with the approval of the Returning Officer, may in like manner appoint one or more persons to be a poll clerk or poll clerks to assist him in taking the poll. Poll clerks.

(iv.) If the Returning Officer or a presiding officer is prevented from attending to any of his duties by illness or other sufficient cause, he may, by writing under his hand, appoint a substitute to act for him, or, in case of his refusal or inability to make such appointment, the secretary may perform the duties of Returning Officer or such presiding officer, or shall, by writing under his hand, appoint a substitute to act for the Returning Officer or such presiding officer. And the secretary or substitute shall thereupon for the time being have all the power and authority of and be deemed to be the Returning Officer or such presiding officer. Substitutes for presiding officers.

17. Forthwith after a poll stands appointed for an election, the Returning Officer shall cause to be printed or written ballot-papers containing the candidates' names in alphabetical order and nothing else, according to the following form :— Ballot-papers to be printed and furnished.

Adams, Charles
Brown, Thomas
Doe, John
Gibbs, Frederick
Mills, Frederick
Roe, Richard
Smith, James
Thompson, Henry
Wilson, Andrew

and shall supply to the presiding officer of each polling-place so many of such ballot-papers as shall be fully equal to the number of voters likely to vote at such polling-place, and shall keep for himself a like sufficient number for the polling-place at which he himself presides.

If two candidates have the same surname and christian name, the residence and occupation of each such candidate shall be added to his name on the ballot-paper.

18. At every booth or polling-place there shall be a compartment or compartments provided with all necessary materials for the purpose of enabling the voters to mark the ballot-papers as hereinafter provided, and in such booth or polling-place no person shall be entitled to be present other than the presiding officer, the poll clerk, the candidates, the scrutineers of the candidates appointed as hereinbefore provided, and the voters who for the time being are voting. Ballot-room.

SCHEDULE II.

*Metropolitan Water and Sewerage. 9 Edw. VII. No. 12,*Ballot box
and papers.

19. The presiding officer shall provide a locked box of wood or other opaque material, of which he shall keep the key, with a cleft or opening in such box capable of receiving the ballot-papers folded as hereinafter provided, which box shall be opened to be inspected by the poll clerks, candidates, and scrutineers previously to its being locked for receiving the ballot-papers, and such box shall stand upon the table at which the presiding officer presides.

Questions to
be put to
voter.

20. At every election the presiding officer may, if he thinks fit, and shall, if called upon so to do by any candidate or scrutineer, put to any person offering to vote the two questions following:—

1. Are you the person whose name appears as A.B. in the Voters' Roll, being named therein as the owner [or occupier] of land described as situated [*here specify the road or other place as described in the Roll*].
2. Have you already voted at this election?

No person who refuses to answer either of such questions, or whose answers to the same do not show his right to vote, shall receive a ballot-paper or be permitted to vote.

Declaration
against
bribery.

21. The presiding officer may if he thinks fit, and shall, if called upon so to do by any candidate or scrutineer, require any person claiming to vote to make a solemn declaration against bribery in the form following, that is to say—

I [A.B.] do solemnly declare that I have not received or had, by myself or any person whatsoever in trust for me or for my use and benefit or for the use and benefit of any member of my family or kindred or any friend or dependent, directly or indirectly, any sum or sums of money, office, place of emolument, gift, or reward, or any promise of or security for any money, office, place of emolument, gift, or reward, by way of consideration, either expressed, implied, or understood, for giving my vote at this election.

No person who refuses to make such declaration shall receive a ballot-paper or be permitted to vote.

No other
question or
declaration.

22. No voter shall at any election be required to answer any question, or take any oath, affirmation, or declaration except as by this Act is provided.

No person claiming to vote at an election shall be excluded from voting thereat except by reason of its appearing to the presiding officer upon putting the questions hereinbefore prescribed, or any of them, that he is not the person whose name appears on the voters' roll, or that he has previously voted at the same election, or except by reason of such person refusing to answer any of such questions or to make such declaration, or by reason of the name of such person not appearing on the voters' roll.

Ballot-paper
to be given to
voters.

23. When a voter has satisfied the presiding officer that he is entitled to vote at the election, the presiding officer shall deliver to him a ballot-paper.

To be
initialled and
marked with
voter's
number.

Before delivery of a ballot-paper to the voter, the presiding officer shall mark the same on the back thereof with his initials, in ink or pencil, and shall also write upon the back of the left-hand upper corner of the ballot-paper, in ink or pencil, the number set against the name of the voter in the voters' roll.

And number
to be
concealed.

The presiding officer shall then, and before delivery of the ballot-paper to the voter, fold down the corner of the paper so as to entirely conceal the number so written, and shall securely fasten the fold with gum or otherwise in such a manner that the number cannot be discovered without unfastening the fold.

Voter's name
to be marked
on roll.

24. Upon delivery of a ballot-paper to the voter, the presiding officer or poll clerk shall, upon the copy of the voters' roll in use by him, make a mark against the voter's name.

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The mark so made on the voters' roll shall be *prima facie* evidence of the identity of the person to whom the ballot-paper is delivered with the person whose name is so marked on the voters' roll, and of the fact that such person voted at the election.

The number marked upon the back of the ballot-paper shall, upon a scrutiny, be conclusive evidence that such ballot-paper was delivered to and used by the person who claimed to vote as the person against whose name such number is set in the voters' roll.

25. The voter having received a ballot-paper shall, in one of the compartments or ballot-rooms provided for the purpose, strike out from his ballot-paper the name of every candidate for whom he does not intend to vote, and shall make no other mark or writing thereon, and shall forthwith fold up the paper in such a manner as will conceal the names of the candidates, and deposit the paper in the ballot-box in the presence of the presiding officer. Mode of voting.

Every voter shall vote for the full number of candidates then to be elected. Plumping prohibited.

While a voter is in a compartment, preparing his ballot-paper, no other person shall be allowed in such compartment:

Provided, nevertheless, that if a voter is unable to read, or is blind, he may signify the fact to the presiding officer, who shall thereupon, in the booth or polling-place, and in the presence and sight of the poll clerks, candidates, and scrutineers, or such of them as are present, strike out the names of the candidate or candidates other than the candidate or candidates for whom the voter says that he desires to vote.

No voter shall take out of the booth or polling-place any ballot-paper either before or after the same has been so marked.

The voter shall fold up the paper in such a manner as to show the initials of the presiding officer on the back thereof, and shall exhibit such initials to the presiding officer before he is allowed to deposit the paper in the ballot-box.

26. No person having once demanded and received a ballot-paper and voted by the same shall, at the same election, receive any other such paper or exercise any further right of voting: Voter to vote once only.

Provided that, before the voter has deposited the original ballot-paper issued to him in the ballot-box, the presiding officer may, if he thinks fit, issue a second or duplicate ballot-paper to such voter in substitution for the original ballot-paper if the original ballot-paper has been accidentally defaced or destroyed: Duplicate ballot-paper.

But the voter shall first make a declaration before the presiding officer that the original ballot-paper has been so accidentally defaced or destroyed, and that he has not already voted at the election, and shall, if possible, deliver to the presiding officer the original ballot-paper.

The presiding officer shall, before the issue of the second or duplicate ballot-paper, securely fasten the original ballot-paper, if delivered to him, by means of gum or otherwise, to the declaration, and shall set the same aside for separate custody.

27. If at any booth or polling-place a ballot-paper has been delivered to any person who has claimed to vote, and afterwards another person claims to vote at such booth or polling-place as being the person in whose name such first-mentioned person received the ballot-paper, the presiding officer shall put to the person so secondly claiming to vote the prescribed questions, and, if he appears by his answers to such questions to be entitled to vote, shall deliver to him a ballot-paper, and such person and such ballot-paper shall be dealt with in all respects in the same Second vote tendered for one name.

manner as in the case of any other person claiming to vote; but his ballot-paper shall not be deposited in the ballot-box or allowed by the presiding officer, but shall be set aside for separate custody.

Every such ballot-paper shall be dealt with as hereinafter provided, and may be allowed and counted by order of the Supreme Court or a Judge thereof on a scrutiny, but not otherwise.

Ballot-paper
when to be
rejected.

28. (i.) Every ballot-paper which—
- (i.) Does not bear the initials of the presiding officer; or
 - (ii.) Does not appear to have the voter's number written upon the back of it by the presiding officer as hereinbefore provided; or
 - (iii.) Has such number torn off; or
 - (iv.) Contains a greater or less number of names of candidates struck out than the number of members to be elected; or
 - (v.) Has upon it any mark or writing not by this Act authorised to be put thereon which in the opinion of the Returning Officer will or may enable any person to identify the ballot-paper or the voter;

shall be rejected at the close of the poll.

Ballot-paper
when not to
be rejected.

(ii.) No ballot-paper shall, however, be rejected merely because of some informality or alleged informality in the manner in which it has been dealt with by the voter or presiding officer if it is regular in other respects, and if, in the opinion of the Returning Officer, the intention of the voter in voting is clearly apparent; but nothing in this subsection contained shall be deemed to affect the jurisdiction of the Supreme Court or a Judge thereof with respect to elections.

Riot or
violence.

29. (i.) If the proceedings at an election are interrupted or obstructed by any riot or open violence, the presiding officer shall not for such cause finally close the poll, but shall adjourn the poll, at the particular polling-place at which the interruption or obstruction happens, to the following day, and if necessary shall further adjourn such poll from day to day until the interruption or obstruction has ceased, when the presiding officer shall again proceed with the business of taking the poll at the place at which it was so interrupted or obstructed. Any day to which the poll is so finally adjourned shall, as to such place, be reckoned the day of polling at such election within the meaning of this Act.

Absence of
presiding
officer.

(ii.) If by reason of the absence of the presiding officer the poll is not taken at any polling-place, the election shall not be therefore void, but the Returning Officer or secretary may appoint another day, not later than fourteen days from the day first appointed, for taking the poll at such polling-place, of which appointment due notice shall be publicly given, and the poll shall be taken accordingly and be deemed to have been taken on the day first appointed.

Adjournment
when no
election on
day
appointed.

(iii.) If after a poll stands appointed for any election it happens that, from any cause other than the absence of the presiding officer, no such election takes place on the day appointed for the same either at all the polling-places or any polling-place, the election shall stand adjourned until the same day of the following week, and the Returning Officer shall not give less than three days' previous notice thereof by advertisement in some newspaper or by placards affixed in public places in the District. In any such case the members, if any, who would on the day appointed for the election have retired from office shall continue in office until the day to which such election or the polling at any booth for the same stands adjourned.

(iv.) When any poll has been so adjourned by any presiding officer other than the Returning Officer, he shall forthwith give notice of such adjournment to the Returning Officer, who shall not finally declare the state of the poll or the name or names of the member or members elected

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until the poll has been finally closed and the ballot-papers have been examined and counted by him as hereinafter provided.

30. Every presiding officer other than the Returning Officer at the close of the poll, in the presence of the poll clerk, if any, and of such of the candidates and scrutineers as may attend, shall—

Presiding officer to seal and forward ballot-papers to Returning Officer.

- (i.) Examine and count the number of votes received for each candidate at the polling-place at which he presided;
- (ii.) Make out a written statement, signed by himself and countersigned by his poll clerk, if any, and any scrutineers who are present and consent to sign the same, containing the numbers in words as well as figures of the votes received for each candidate so counted as aforesaid;
- (iii.) After making out and signing such statement, make up in one parcel all the ballot-papers together with the voters' roll supplied to him by the Returning Officer (which shall be signed by him and the poll clerk, if any), and all books and papers used by him during the polling, and in another parcel all ballot-papers and declarations set aside for separate custody as aforesaid, and shall securely fasten and seal up such parcels and permit the same to be sealed by the scrutineers present if they so desire;
- (iv.) With the least possible delay, deliver or cause to be delivered to the Returning Officer such parcels and statement; and
- (v.) By the next practicable opportunity thereafter, also transmit to him a duplicate of such statement signed and countersigned as aforesaid.

31. Every Returning Officer, at the close of the poll, in the presence of his poll clerk, if any, and of such of the candidates and scrutineers as may attend, shall—

Returning Officer to examine and count votes at his polling-place and then seal up the same.

- (i.) Examine and count the number of votes received for each candidate at the polling-place, if any, at which he presided;
- (ii.) Make out a written statement, signed by himself and countersigned by his poll clerk, if any, and by any scrutineers who are present and consent to sign the same, containing the numbers in words and figures of the votes received for each candidate so counted as aforesaid;
- (iii.) After making out and signing such statement, make up in one parcel all the ballot-papers, voters' rolls, books, and papers kept and used by him during the polling, and in another parcel all ballot-papers and declarations set aside for separate custody as aforesaid, and shall securely fasten and seal up such parcels and permit the same to be sealed by the scrutineers present if they so desire;
- (iv.) Endorse upon each parcel when so sealed a description of the contents thereof, and the name of the polling-place, and the date of polling, and sign such endorsement with his name.

32. As soon as possible after the Returning Officer has received from the several presiding officers the sealed parcels so transmitted to him, containing the ballot-papers taken at the polling-places at which such presiding officers respectively presided, and the several statements of the numbers of votes so transmitted by them, he shall—

Returning Officer to open sealed parcels transmitted by presiding officers and count the votes, after which each parcel to be re-sealed.

- (i.) From his own statement, if any, and such other statements, ascertain the gross number of votes for each candidate;
- (ii.) In the presence of his poll-clerk, if any, and of such candidates and scrutineers as may attend, open such sealed parcels, and examine and count the number of votes for each candidate at each polling-place;

- (iii.) After having counted the same, make up in separate parcels the ballot-papers, declarations, voters' rolls, books, and papers received from each presiding officer in like manner as hereinbefore prescribed concerning the ballot-papers, voters' rolls, books, and papers kept and used by him at the polling-place, if any, at which he presided, and securely fasten and seal up, and also permit to be sealed up by the scrutineers, and endorse in like manner as aforesaid, the said several parcels, and deal with the same as hereinafter provided ;
- (iv.) Make out in respect of each polling-place a like written statement, signed and countersigned as hereinbefore required, concerning the polling-place, if any, at which he presided ;
- (v.) Examine the voters' rolls which have been used by himself and the presiding officers at the several polling-places, and ascertain whether any voters appear to have voted at more than one polling-place ;
- (vi.) Make out a list, showing the names and numbers of all voters who appear to have voted at more than one polling-place, or to have voted twice at any one polling-place, and forward a copy thereof to each of the candidates, and enclose the original list in the sealed packet with the voters' rolls.

No Returning Officer shall open or examine any sealed packet in the joint absence of any candidate and his scrutineer, unless he has given twenty-four hours' previous notice in writing to such candidate or to his scrutineer of his intention to open and examine the same.

Declaration of
poll.

33. The Returning Officer, as soon as possible after he has examined and counted all the ballot-papers taken at the several polling-places and ascertained the gross number of votes received for each candidate, shall at the place of nomination openly declare the result of the poll as so ascertained, and shall at the same time and place declare the name of the candidate elected, and shall forthwith thereafter certify to the secretary, by writing under his hand, the name of the candidate or the names of the candidates so elected, and the date of the declaration of the result of the election.

If the number of votes for any two or more candidates is found to be equal, he shall decide by his casting vote which shall be elected.

The Returning Officer may, if qualified, vote at the election in addition to giving a casting vote.

Ballot-papers
to be
transmitted to
the secretary.

34. The Returning Officer shall forthwith, after the declaration of the poll at any election—

- (i.) Enclose in one packet the several sealed parcels so made up and sealed by him ;
- (ii.) Securely fasten and seal up such packet ;
- (iii.) Endorse upon such packet a description of the several contents thereof and the date of polling, and sign such endorsement with his name ;
- (iv.) Cause such sealed packet to be delivered to the secretary.

The secretary shall safely keep the same for twelve months after the receipt thereof. At the expiration of such twelve months, the President shall cause the ballot-papers to be destroyed in the presence of at least three members of the Board.

If any question at any time arises touching the votes alleged to have been given at any election, the ballot-papers contained in any such sealed packet shall be received in evidence as proof of such votes in any Court of Justice, upon production thereof, and upon proof that the same was transmitted to the secretary in due course by the Returning Officer.

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35. No election shall be liable to be questioned by reason of—

- (i.) Any defect in the title, or any want of title, of any person by or before whom such election is held, if such person really acted at the election ; or
- (ii.) Any formal error or defect in any declaration or other instrument, or in any publication made under this Act or intended to be so made ; or
- (iii.) Any such publication being out of time ; or
- (iv.) Any delay in holding the election at the time appointed, or in taking the poll ; or
- (v.) In consequence of any impediment of a merely formal nature.

Election not to be questioned.

And the Governor in Council may adopt such measures as may be necessary for removing any obstacle of a merely formal nature by which the due course of any election might be impeded :

Provided that the validity of the election and the measures so taken shall be forthwith declared by the Governor in Council. Proviso.

36. The Returning Officer shall pay into the Water and Sewerage Fund the moneys paid to him as aforesaid by all such candidates as do not at the poll receive a number of votes equal at least to one-fifth part of the votes received by the successful candidate if there is only one, or such one of the successful candidates if there are more than one as received the smallest number of votes, and shall, after the election, repay to each of the candidates who has duly retired from his candidature, or who has been returned without a poll, or who has received a number of votes equal to at least such one-fifth part, whether he is declared elected or not, the moneys so paid by or for them respectively, and the same may, in default of such repayment, be recovered by action before any two justices.

Destination of money paid on nomination.

37. All reasonable expenses of, or incident to, any election incurred by the Returning Officer shall be repaid to him by the Board out of the Water and Sewerage Fund.

Expenses of Returning Officer.

38. Every Returning Officer shall have power and authority to maintain and enforce order, and to keep the peace at any election held before him.

Returning Officer to maintain order.

All police officers shall aid and assist the Returning Officer in the performance of his duty.

39. Any act which would avoid the election of a member of the Legislative Assembly shall avoid the election of a member under this Act.

Corrupt practices.

The acts of an authorised agent of a candidate shall be held to be acts of his principal if proved to have been committed with the consent of the candidate.

SCHEDULE III.

PROVISIONS GOVERNING AND RELATING TO THE PROCEEDINGS AND BUSINESS OF THE BOARD.

1. The Board shall appoint and occupy as its public office such convenient premises as the Board may select.

Office. 61 Vic. No. 15, s. 16.

2. The secretary or some person duly authorised by the Board in that behalf shall attend at such office daily (Sundays and days appointed to be kept as public holidays or bank holidays at Brisbane or throughout Queensland alone excepted) for the purpose of receiving notices and transacting the ordinary business of the Board.

Daily attendance at office.

SCHEDULE
III.

Metropolitan Water and Sewerage. 9 Edw. VII. No. 12,

Due notice of the place of the office of the Board and of the hours during which attendance is given there shall be published by the Board in such manner as the Board directs, so that the same may be fully and generally known.

Meetings.
53 Vic. No. 9,
s. 114.

3. The Board shall hold an annual meeting, and such other meetings for the transaction of business as are necessary for properly executing its powers and performing its duties under this Act.

All meetings of the Board other than a meeting of the Board sitting in a Committee of the Whole shall be open to the public.

President's
duty.
53 Vic. No. 9,
s. 116.

4. The President shall take precedence in all matters connected with the Board, and shall be its principal executive officer.

He shall preside at every meeting of the Board at which he is present, and if he is absent from any meeting another member shall be chosen as chairman during the absence of the President from that meeting.

Deputy
President.
2 Edw. VII.
No. 19, s. 35.

5. If the President is at any time temporarily absent from the District, or if he is ill, the Board may, if it thinks fit, appoint one of its members to act as Deputy President during the time of such absence or illness.

The Deputy President, while so acting, and until the President returns to the District or notifies the secretary in writing under his hand of the fact of his recovery from illness, may do all acts which the President, as such, might do.

Quorum.
53 Vic. No. 9,
s. 117.

6. No business shall be transacted at any meeting of the Board unless at least five members are present when such business is transacted.

All powers vested in the Board may be exercised by the majority of the members present at a meeting duly held, and all questions shall be decided by a majority and by open voting.

Upon every question the President shall have a vote, and if the numbers are equally divided he shall have a second or casting vote.

At all meetings, save as herein otherwise provided, all members present shall vote.

If a member refuses to vote, his vote shall be counted for the negative

Acting as
member
where
interested.
53 Vic. No. 9,
s. 118.

7. No member shall vote or take part in debate with respect to any matter in which he has, directly or indirectly, by himself or his partners, any pecuniary interest.

Every member who knowingly offends against this section shall be liable to a penalty not exceeding fifty pounds.

Adjournment
of meeting.
53 Vic. No. 9,
s. 119.

8. The members present at a meeting may, from time to time, adjourn the meeting.

If a quorum is not present within half an hour after the time appointed for a meeting, the members present, or the majority of them, or any one member if only one is present, or the secretary if no member is present, may adjourn the meeting to any time not later than fourteen days from the date of such adjournment:

Provided that nothing herein contained shall be construed to prevent the adjournment of any meeting to a later hour of the same day on which such meeting was appointed to be held.

Notices of
meetings.
53 Vic. No. 9,
s. 122.

9. Notices of any meeting or adjourned meeting (other than of a meeting adjourned to a later hour of the same day on which such meeting was held or was appointed to be held or to the day or second day following the day on which such meeting was held) shall be in writing, and shall be delivered at or sent by post or otherwise to the usual place of business (if any) within the District, or at or to the place of abode, of each of the members two clear days at least previous to the time of meeting.

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III.

Every such notice shall specify the time of meeting, and in case of a special meeting shall specify the object thereof.

No business shall be transacted at any special meeting except such as is stated in the notice of the meeting.

10. A resolution of the Board shall not be revoked or altered unless notice of the intention to propose the revocation or alteration is given to each of the members seven days at least before holding the meeting at which the revocation or alteration is to be proposed. Resolutions, how revoked or altered. 53 Vic. No. 9, s. 120.

If the number of members present at that meeting is not greater than the number present when such resolution was adopted, the resolution shall not be revoked or altered unless the revocation or alteration is determined upon by an absolute majority of all the members.

11. Any member may resign his office by writing under his hand addressed to the President, and such resignation shall be complete from the time when it is received by the President. Resignations.

12. If any member refuses or neglects to act or to attend any duly convened meeting of the Board, all lawful acts and proceedings of the Board shall be as valid and effectual as if they had been done or authorised by the full Board. Absence or refusal to act.

13. No proceedings of the Board or of any person acting as President shall be invalidated by reason of any defect in the appointment or election or of any disqualification of any member, or by reason of there being any vacancy in the number of members at the time of such proceedings. Proceedings invalidated.

Committees.

14. The Board may, from time to time—

- (a) Appoint out of its number committees, either for general or special purposes;
- (b) Delegate to a committee power to do any act or hold any inquiry;
- (c) Fix the quorum of a committee.

Committees—quorum. 53 Vic. No. 9, s. 123.

Every committee may, from time to time, appoint one of the members to be chairman of the committee.

Every committee shall report to the Board.

15. A committee may meet from time to time, and may adjourn from place to place, as they think proper. Meetings, chairman, &c., of committees. 53 Vic. No. 9, s. 124.

But no business shall be transacted at a meeting of the committee unless the quorum of members (if any) fixed by the Board or, if no quorum is fixed, two members at the least are present.

At meetings of a committee if the chairman is not present one of the members present shall be appointed chairman.

All questions shall be determined by a majority of the votes of the members present, including the chairman; and, if the numbers are equally divided, he shall have a second or casting vote.

Minutes.

16. The Board and every committee appointed by it shall cause entries of all the proceedings of the Board or of the committee, as the case may be, with the names of the members present at each meeting and of the names of the members voting upon any question for the decision of which a division is called, to be duly made from time to time in books to be provided for the purpose, which shall be kept by the secretary under the superintendence of the President. Minutes of proceedings. 53 Vic. No. 9, s. 125.

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Every such entry shall be signed by the chairman at the meeting next succeeding the meeting at which such proceeding has taken place.

Copies and
extracts from
minutes.
53 Vic. No. 9,
s. 126.

17. Such books shall be open to inspection.

Every person having the custody of any such book who does not, on the reasonable demand of any member, ratepayer, or creditor, permit such inspection shall be liable to a penalty not exceeding five pounds.

Safe custody
of books, &c.

18. (1.) The secretary shall be responsible for the safe custody of all books of account, agreements, receipts, vouchers, and other books, papers, and writings belonging to or relating to the business of the Board.

He shall make a record of the same in obedience to the direction of the Auditor-General, and shall not destroy or mutilate any of them without his sanction in writing previously obtained.

Loss or
destruction
of records.

(2.) Whenever any rate book, valuation, return, book of account, agreement, receipt, voucher, or other paper or writing belonging to or relating to the business of the Board is destroyed or lost, the Governor in Council may, by Order in Council, direct all such acts and things to be done as he thinks best for repairing the loss, and may declare any copy of any such book, valuation, return, agreement, receipt, voucher, or other paper or writing to be valid and effectual for all purposes, and may, if necessary, define the time during which such copy shall remain in force.

Officers.

Security by
officers
entrusted with
moneys.
2 Edw. VII.
No. 13, s. 48.

19. Within three months after the appointment of any officer entrusted by the Board with the custody or control of moneys by virtue of his office, the Board shall take sufficient security from some association or joint stock company carrying on in Brisbane the business of a guarantee society for the faithful execution of such office by such officer.

If upon the expiration of that period such security has not been taken, the office of such officer shall forthwith be vacated.

President
may suspend
officers.
53 Vic. No. 9,
s. 131.

20. The President may suspend from office any officer of the Board who, in his opinion, is guilty of misconduct or neglect, and may, if necessary, temporarily appoint another officer in his place:

Provided that, at the next meeting of the Board after the suspension, the President shall report the matter to the Board; and if the officer so suspended is dismissed by the Board, no salary or allowances shall be due or paid to him from the date of his suspension.

Every officer so temporarily appointed shall hold office and receive remuneration (which shall in no case exceed that paid to the officer or servant so suspended) only until the Board decides whether the person suspended shall be reinstated, or whether he shall be dismissed and a successor appointed in his stead.

Officers fail-
ing to render
accounts or to
pay balance
and deliver
over property
of Board.
53 Vic. No. 9,
s. 133.

21. If an officer of the Boards fails, when required by the Board so to do—

- (a) To render accounts of any money received by him for or on behalf of the Board, and of his dealings with it; or
- (b) To produce and deliver up the vouchers and receipts relating to the money in his possession or power; or
- (c) To pay the balance of the money when so required; or
- (d) To deliver up to the Board or to any person appointed by it to receive the same, within five days after being so required, all papers and writings, property, matters, and things in his possession or power relating to the execution of this Act or belonging to the Board;

any two justices may, upon complaint, hear and determine the matter in a summary way, and may order the officer to render such accounts, or

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to deliver up such vouchers and receipts, or to pay over the balance owing by him, or to deliver up all such papers, writings, property, matters, and things, and to pay the costs of the proceedings. If such officer neglects or refuses to obey such order, he may, by any justice, be committed to prison for any period not exceeding six months.

22. If any officer has—

- (i.) Misapplied or retained or become liable or accountable for any moneys or property of the Board ; or
- (ii.) Has exacted or accepted, on account of anything done by virtue of his office or in relation to any matters to be done under this Act, any fee or reward other than the salary or allowance allowed by the Board, or has been or is in anywise concerned or interested in any bargain or contract made by the Board ; or
- (iii.) Has been guilty of any neglect, breach of duty, or misfeasance in the discharge of his office or in relation to any matters to be done under this Act ;

Officers answerable for negligence and misfeasance. 2 Edw. VII. No. 19, s. 52.

a District Court may, on the plaint of the Board, inquire into the conduct of such officer, and may order him to repay any moneys or restore any property so misapplied or retained, or for which he has become liable or accountable, together with interest at such rate as the Court thinks just, and to pay such sum of money to the Board by way of penalty or compensation as the Court thinks fit.

Such inquiry shall for all purposes be deemed to be and have the effect of the trial of an action (including the right to a jury) within the meaning of "*The District Courts Act, 1891*,"* or any Act amending or in substitution for the same.

A District Court shall have jurisdiction to hold and determine any such inquiry whether the amount, property, penalty, or compensation sought to be recovered does or does not exceed two hundred pounds or the value thereof.

23. All proceedings by the Board under this Act against an officer may be had and taken and enforced against such officer after he has ceased to hold his office.

As to proceedings against officer. 53 Vic. No. 9, s. 134.

No such proceedings against an officer shall deprive the Board of any remedy which it might otherwise have against a surety of that officer.

Contracts.

24. (1.) The Board may enter into contracts for the purposes of this Act ; and every such contract may be made, varied, or discharged as follows, that is to say,—

Made in which Board may enter into contracts, and effect thereof. 53 Vic. No. 9, s. 6.

- (i.) A contract, which if made between private persons would by law be required to be in writing and under seal, may be made in writing and under the common seal of the Board, and may be varied or discharged in the same manner ;
- (ii.) A contract, which if made between private persons would by law be required to be in writing signed by the parties to be charged therewith, may be made in writing, signed by the President or two of the members acting by the direction and on behalf of the Board, and may be varied or discharged in the same manner ;
- (iii.) A contract, which if made between private persons would by law be valid, although not reduced in writing, may be made without writing by the President or two of the members acting by the direction and on behalf of the Board, and may be varied or discharged in the same manner.

* 55 Vic. No. 33, *supra*, page 4217.

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(2.) And all contracts made according to the provisions herein contained shall be effectual in law, and shall be binding on the Board and all other parties thereto, their successors, executors, or administrators, as the case may be; and in case of default in the execution of any such contract, either by the Board or by any other party thereto, such actions may be maintained and such damages and costs recovered by or against the Board, or other parties failing in the execution thereof, as might have been maintained and recovered had the same contracts been made between private persons only.

Composition
for breaches
of contract,
&c.
2 Edw. VII.
No. 19, s. 57.

25. The Board may, for such sum of money or other consideration as it thinks fit, compound with any person who has entered into any contract with the Board, or by or against whom any action or other proceeding may be or has been brought against or by the Board, for any cause whatsoever other than proceedings for the recovery of any rate.

Tenders.

Notice calling
for proposals.
2 Edw. VII.
No. 19, s. 58.

26. Except in cases of emergency, before any contract for the execution of any work or the furnishing of any goods or materials to the amount of one hundred pounds or upwards is entered into by the Board, fourteen days' notice at least shall be given in some newspaper expressing the purpose of such contract, and inviting any person willing to undertake the same to make proposals for that purpose to the Board.

The Board may accept the proposal which on a view of all the circumstances appears to it to be most advantageous, and may take security for the due performance of every such contract, or the Board may decline to accept any such proposal.

Delegation of Powers.

Board may
delegate
powers.
53 Vic. No. 9
s. 94.

27. The Board may authorise the President or any officer of the Board to do any of the acts, matters, and things which the Board is by this Act empowered or required to do; and the President, or such authorised officer, shall have and exercise all the powers hereby conferred on the Board; and 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 Board.

Procedure.

Board may
appear in
Court by
secretary or
other officer.

28. The Board may appear before any court or in any legal proceeding by its secretary, or by an authorised officer; and the secretary or such officer shall be at liberty to institute and carry on any proceeding which the Board is authorised to institute and carry on under this Act.

The secretary or such officer shall, out of the Water and Sewerage Fund, be reimbursed all damages, costs, charges, and expenses to which he may be put or with which he may become chargeable by reason of anything contained in this provision.

Insolvent
debtors.

29. If any person against whom the Board has any claim or demand under this Act takes the benefit of any Act for the relief of insolvent debtors, the secretary, in all proceedings against the estate of such insolvent or under any adjudication, sequestration, or act of insolvency against such insolvent, may represent the Board and act in its behalf in all respects.

General.

Authentica-
tion of
documents.

30. Every order, summons, notice, or other such document requiring authentication by the Board shall be sufficiently authenticated without the seal of the Board if signed by the President, or by the secretary, or by an authorised officer.

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31. (1.) Any notice, order, process, or other document under this Act required or authorised to be given or served to or upon any person may be served—

Service of
notice, &c.
2 Edw. VII.
No. 19, s. 385.

- (i.) By delivering the same to such person; or
- (ii.) By leaving the same at his usual or last known place of abode; or
- (iii.) By forwarding the same by post in a prepaid letter addressed to such person at his usual or last known place of abode.

(2.) Any such document, if addressed to the owner or occupier of land, may be served by delivering the same or a true copy thereof to some person on the land, or, if there is no person on the land who can be so served, by fixing the same on some conspicuous part of the land.

(3.) Except as is hereinafter provided, when a notice is required to be given to a person whose name and address are unknown, the notice may be served by publishing it in the *Gazette* and some newspaper three times, at intervals of not less than one week between any two publications.

(4.) Any notice, order, or document required to be given to or served on the owner or occupier of any land may, if the name of the owner or occupier is not known, be addressed to him by the description of the "owner" or "occupier" of the land in question (naming them) without further name or description.

(5.) Any document may be served on the Board—

- (i.) By delivering the same to the secretary; or
- (ii.) By forwarding the same by post in a prepaid letter addressed to the secretary.

32. (1.) If any owner of land is absent from Queensland, he may be rated or a complaint or summons may be served upon him, or notice may be given to him by delivering it or posting it in a registered letter to his agent in Queensland.

Absent and
unknown
owners.

(2.) If the name or address of an owner and the name and address of the agent in Queensland of such owner are also unknown, a complaint or summons may be served upon him or notice may be given to him by publishing it once in the *Gazette* and in some newspaper.

(3.) A judgment or order for the payment of any rates or other moneys due may be given by any Court against an owner whose name is not known to the Board, under the designation of "the owner" of the land in question without stating his name, on proof by the President or secretary that the name of such owner is unknown, and that service of the complaint or summons was made in manner hereinbefore provided.

33. Applications, plans, and other documents delivered at the office of the Board or to any officer thereof in pursuance of this Act shall, on delivery there, become the property of the Board.

Plans and
documents to
be property of
Board.

34. The Board shall cause printed copies of all By-laws to be kept at the office of the Board, and to be sold at a reasonable charge to any person applying for the same.

Printed copies
of By-laws to
be kept.
2 Edw. VII.
No. 19, s. 190.

35. The Board shall, on or before the first day of April in every year, transmit to the Minister a report of its proceedings and of the works carried out, and an account of all moneys received and expended by it, during the year ending on the thirty-first day of December in the preceding year.

Annual
report to
Parliament.
53 Vic. No 9,
s. 135.

The report shall be laid before Parliament within one month after its receipt by the Minister, if Parliament is then sitting, and if not, then within one month after the commencement of the next session of Parliament.

SCHEDULE IV.

SUBJECT-MATTER FOR BY-LAWS.

53 Vic. No. 9,
s. 85; 55 Vic.
No. 11, s. 36;
64 Vic. No. 9,
s. 45; 2 Edw.
VII. No. 14.,
s. 2; 5 Edw.
VII. No. 23,
ss. 3, 6, 7.

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|--------------------------------------|--|
| Meetings. | 1. The times for holding meetings, the summoning and adjournment of meetings; the proceedings and preservation of order in meetings. |
| Business. | 2. The transaction and management of business. |
| Officers and servants. | 3. The duties, discipline, conduct, and regulation of the officers and servants of the Board. |
| Seal. | 4. The custody and use of the common seal. |
| Forms. | 5. Prescribing forms to be used under or for the purposes of this Act; the form of contracts with the Board. |
| Notices. | 6. The giving of notices. |
| Inspection. | 7. The inspection of works. |
| Plans. | 8. The deposit of plans and sections of proposed sewerage and drainage works. |
| Plumbers, &c. | 9. The examination and registration or licensing of plumbers, drainers, and other tradesmen employed in connection with water supply and sewerage and drainage works.
Making provision for fining, suspending, or disqualifying them for breaches of this Act. |
| Fees. | 10. Prescribing fees payable for tapping the mains or connecting with the sewers of the Board; and for licenses, registrations, and permits, and house drainage plans. |
| Meters. | 11. Regulating the construction, disposition, custody, and inspection of meters and the fittings used therewith. |
| Waste, &c., of water. | 12. Protecting and preventing and remedying the waste, misuse, undue consumption, or contamination of water contained in or supplied from the waterworks or otherwise under the control of the Board. |
| Proper fittings. | 13. The testing, marking, and stamping of fittings, and prohibiting the use of any fittings not so tested, stamped, and marked; prohibiting any mode of arrangement and the use of any fittings or sanitary conveniences the use of which may, in the opinion of the Board, cause or tend to cause any waste, misuse, undue consumption, fouling, or contamination of the water; repairing fittings. |
| Managing works. | 14. The due management and use of the water and other property of the Board and of any water under its jurisdiction, and the construction, maintenance, extension, cleansing, repair, and management of the works. |
| Catchment areas, &c. | 15. The preservation of the catchment areas for water supply or any land comprised therein against pollution; and prohibiting the doing or continuance of anything likely to cause pollution thereof or of the water supply thereon. |
| Protecting the water and works. | 16. Protecting the water, the works, fittings, drainage apparatus, and other property of the Board, and every part thereof, from trespass and injury. |
| Nuisances. | 17. Preventing and removing nuisances on lands and works vested in or under the control and management of the Board. |
| Prescribing materials, fittings, &c. | 18. The size, nature, description, strength and materials, and the mode of arrangement, alteration, and repairs of pipes, fittings, and sanitary conveniences which are to be placed or used in connection with water supply.
The time of executing and the notice to be given for such works and the superintending thereof, the making good ground displaced thereby; inspecting services. |

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19. Regulating the disinfection and cleansing of or otherwise dealing with any substance or matter before the discharge thereof into any drain or sewer. Disinfection.
20. The supply of water to groups of premises by means of a common stand pipe and fittings; the apportionment of the cost of the necessary works amongst the respective owners in such case. Water supply to groups of premises.
21. The conditions on which water may be used by consumers for the purposes of watering cattle and cleansing public vehicles; and the making and levying of additional rates or charges in such cases. Cattle and public vehicles.
22. The quantity of water which consumers are entitled to receive from the works for domestic or other purposes; the method of ascertaining such quantity; and the price to be charged to and paid by consumers for the water supplied to them from the works for domestic or other purposes. Prescribing quantity of water to be used by consumers.
23. To meet the contingency of any insufficiency or threatened insufficiency in the general water supply. Insufficiency of water.
24. Specifying the purposes other than domestic for which, and the persons or classes of persons to whom, water may be supplied under agreement, and the general and special terms and conditions upon which water shall be so supplied. Specifying purposes other than domestic.
25. Specifying purposes for which water shall not be supplied or shall only be supplied to a limited extent. Purposes for which water not supplied.
26. Preventing any person from allowing any other person not having agreed to be supplied by the Board to use the water, and preventing such person from using the same. Misuse of water.
27. Specifying how far within the exterior edge of land prescribed fittings may be laid down, placed, fixed, or attached thereto by the Board or any authorised person. Specifying where fittings may be laid or placed.
28. Regulating the supply of water to sanitary conveniences. Supply to sanitary conveniences.
29. (a) Prohibiting the erection of dwelling-houses or the adaptation of any buildings for use as dwelling-houses on sewered premises which are so situated as not to admit of being drained by gravitation into an existing sewer of the Board, or any defined area or areas of such land. Building on low-lying land.
- (b) Regulating the erection of dwelling-houses or the adaptation of buildings for use as dwelling-houses on sewered premises or any defined area or areas of such land.
- (c) Prescribing the level at which the under side of the lowest floor of any permitted building shall be placed on sewered premises or any defined area or areas of such land, and as to the provision to be made and maintained by the owner for securing efficient and proper drainage of the buildings.
30. Prohibiting or restricting the turning into any sewerage works of trade refuse from tanneries, breweries, chemical works, or other industrial operations. Trade refuse.
31. Fixing the level beyond which water supplied from the works may not be allowed to rise at any particular place within the District. Fixing levels of water.
32. The levels, dimensions, construction, maintenance, ventilation, and cleansing of sewers and drains; the purposes for which and the conditions under which sewers, drains, and drainage apparatus may be used or applied; the materials and apparatus to be used for any of those purposes; preventing or regulating the laying of drains under structures. Sewers and drains.
33. Provision of sewers to be made at the expense of any person laying out or selling land for building purposes. New sewers on cutting up land.

SCHEDULES
IV. AND V.*Metropolitan Water and Sewerage.* 9 EDW. VII. No. 12,

- Charge for water supplied to lands not rateable. 34. Fixing scales of charges for water supplied to lands which are not rateable for the purposes of the Local Authorities Act, which charges, in the discretion of the Board, may be determined by rate assessed in accordance with this Act or by measurement of the water supplied, and may vary from the charges made for water supplied to other lands and determined in a similar manner, and may also vary in respect of the different classes of lands not so rateable.
- Sale of water. 35. Prescribing the moneys to be paid for water supplied, and the payment and collection thereof.
- Charges for water supplied by measure. 36. Fixing the scale of charges to be paid where water is sold and supplied to consumers by measure, including the fixing of a minimum amount to be paid in every case, and prescribing the conditions upon which the water shall be supplied.
Such By-laws may—
- Minimum payment. (a) Fix a minimum amount which shall be payable in respect of water supplied to any consumer during any year or part of a year;
- Reduction of price. (b) Provide for a reduction in the price of water so supplied in excess of a specified quantity.
- Levying rates. 37. Making, levying, and collecting rates.
- Basis of water rating. 38. Defining the basis upon which water rates may be assessed, which basis may, subject to this Act, be—
- (a) The value of the land; or
- (b) The total superficial area of the floors measured externally in the buildings, if any, erected on the land; or
- (c) The uses to which the land or such buildings are put; or
- (d) The mean height of the land above sea level; or
- (e) Any basis arrived at, taking into any consideration any two or more of the abovementioned bases; or
- (f) Any other basis fixed by the Board.
- Basis of sewerage rating. 39. Defining the basis upon which sewerage rates shall be assessed, which basis may, subject to this Act, be—
- (a) The value of the land; or
- (b) The uses to which the land or the buildings erected on the land are put; or
- (c) Any other basis fixed by the Board.
- Increase or reduction in price of water. 40. Providing for an increase or reduction of the price of water supplied, taking into consideration the purpose for which lands or any buildings erected thereon are used, and whether the water supplied is charged for by way of rating or by measurement of the quantity supplied, or otherwise howsoever.
- Removal, &c., of unlawful works. Generally. 41. The power to remove, take up, alter, or destroy any work begun or done in contravention of this Act.
42. Generally for carrying into effect the purposes of this Act in respect of any matter not herein provided for or insufficiently provided for, and as to which the Governor in Council, by Order in Council, permits By-laws to be made.

SCHEDULE V.
FORMS.

No. 1.—DECLARATION OF OFFICE.

I do solemnly and sincerely promise and declare that, according to the best of my skill and ability, I will faithfully, impartially, and truly execute the office and perform the duties of a member (*or of President*) of the Metropolitan Water and Sewerage Board.

(Signed) A.B.

1909.

Metropolitan Water and Sewerage.

No. 2.—METROPOLITAN WATER AND SEWERAGE BOARD.

General Notice.

The Metropolitan Water and Sewerage Board having made sewers for carrying off the sewage from each premises which, or any part of which, is comprised in or is adjacent to the land or abuts on the roads or parts of roads in which such sewers are laid, and which are included within the locality hereinafter described, hereby declares that on and after the day of , 19 , each premises which, or any part of which, is comprised in or is adjacent to such land or abuts on the said roads or parts of roads, and which is within three hundred feet of the said sewers, shall be deemed to be seweried premises within the meaning of "*The Metropolitan Water and Sewerage Act of 1909.*"

The locality hereinbefore referred to is [*here describe same*].

By order of the Board,

A.B., President.

C.D., Secretary.

No. 3.—METROPOLITAN WATER AND SEWERAGE BOARD.

Further General Notice.

To the owner of premises situated [*here state situation of premises*].

The Metropolitan Water and Sewerage Board, having made sewers for carrying off the sewage from each premises which, or any part of which, abuts on the road or part of a road hereinafter described, hereby orders as follows (that is to say):—

1. Within one month after the day of 19 or within such further time as the Board may, either before or after the expiration of such one month, allow, you are required to—

- (a) Submit to the Board a plan for providing the abovementioned property with such sanitary conveniences, and such drains and drainage apparatus, to be fitted and laid in such manner as may be prescribed by the by-laws of the Board, with such variations (if any) from such by-laws as the Board, on written application made to it, may in writing approve.

In this case the Board may approve such plan, or make such alterations therein, or modifications thereof, as to the Board seems proper; or

- (b) Submit to the Board a plan as aforesaid, and, in writing, request the Board to give an estimate of the expense of executing the work in accordance with such plan.

In this case the Board may approve such plan, or make such alterations therein, or modifications thereof, as to the Board seems proper, and the Board shall give an estimate of the expense of executing the work in accordance with such plan as so approved, or as so altered or modified; or

- (c) In writing, request the Board to prepare a plan as aforesaid; or

- (d) In writing, request the Board to prepare a plan as aforesaid, and give an estimate of the expense of executing the work in accordance with the plan so prepared.

The expense of preparing any plan or giving any estimate as aforesaid shall be fixed by the Board, and shall be borne by you, and shall be paid by you to the Board upon your being notified that the Board has prepared such plan or made such estimate.

If you shall fail or neglect within the limited time to submit any plan or to make any request as aforesaid, you shall be deemed to have requested the Board to prepare a plan and give an estimate of the expense of executing the work in accordance with the plan so prepared.

2. The Board will, as soon as conveniently may be, approve of such plan submitted by you with or without alterations or modifications, or comply with such of the aforesaid requests as you may make, and will thereupon notify you of such approval or compliance, as the case may be, and at the same time or at any time thereafter the Board may by notice in writing order you within one month from such notice, or within such further time as the Board may allow, to execute the work in accordance with the plan so approved or prepared as aforesaid. If you disobey such order and do not make the request in the next paragraph mentioned, you will be punishable by a penalty not exceeding twenty pounds and a daily penalty not exceeding forty shillings. In addition thereto the Board may carry out and perform on your behalf and at your expense any works, matters, and things in which you have made default.

You may, within fourteen days from such order as aforesaid, or within such further time as the Board may allow, request the Board in writing to execute the work at your expense, either for the estimated amount or at actual cost.

3. In the event of the Board executing the work, pursuant to your request, the Board will, if so requested, accept payment of the expense thereof by twenty quarterly instalments, bearing interest at five pounds per centum per annum, on such portion as from time to time remains unpaid.

4. Such request must be made in writing, and signed by you, and must be lodged with the Board within one month from the time of your being notified, in writing, by the Board of the amount of such expense. The first quarterly instalment shall be payable immediately on the expiration of the said month. You may at any time pay to the Board such portion as then remains unpaid of such expense, together with interest thereon at the said rate to the date of such payment.

5. The road or part of a road hereinbefore referred to is [*here describe same*].

6. The By-laws of the Board can be inspected at the office of the Board, situate at [*here state situation of office*].

7. A copy of the By-laws of the Board can be purchased at the said office.

Dated this day of , 19 .

By order of the Board,

A.B., President.

C.D., Secretary.

1909.

Metropolitan Water and Sewerage.

No. 4.—FORM OF RATE BOOK.

53 Vic. No. 9,
Sch. II.

A Water [*or Sewerage*] Rate made this day of 19 ,
at the rate of pence in the pound [*or as the case may be*],
under "*The Metropolitan Water and Sewerage Act of 1909.*"

No. on the rate book.	OCCUPIER.		OWNER.			Description and situation of land.	Value (according to the basis of rating).	Rate at the pence in the pound [<i>or at per 100 superficial feet, or as the case may be.</i>]	When payable.	When and by whom paid (Occupier or Owner).
	Christian Name.	Surname.	Christian Name.	Surname.	Residence.					

Signed by us this day of 19 .
A.B., President.
C.D., Secretary.

No. 5.—WARRANT OF DISTRESS.

53 Vic. No. 9,
Sch. IV.

The Metropolitan Water and Sewerage Board.

To , the bailiff of the Board or his assistant.
Whereas the rateable land, numbered in the rate-book of the Board, has been rated at the sum of £ per annum for a [*specifying the rate*] rate; [*or whereas the sum of £ is due or payable in respect of water supplied by meter by the Board to the occupier of the rateable land numbered in the rate-book of the Board (or as the case may be)*]; and whereas the said amount [*or a portion of the said amount*], to wit, £ , was duly demanded from , the occupier of such land, by notice, signed by the secretary [*or as the case may be*] on the day of , 19 , [*or as the case may be*], and has not yet been paid: These are, therefore, to require and authorise you forthwith to levy the said sum of £ , together with the costs of these presents and of such levy, by distress and sale of the goods and chattels found by you on the said land, according to law, and that you certify to me on the day of , what you do by virtue of this warrant.

Given under my hand and seal of the Board, this day of , A.D. 19 .

A.B., President.

Warrant	...	...	...
Levy	...	...	...
Possession at per diem	...	...	...
Mileage	...	...	...
			£

Office of the Board,
Brisbane, 19 .

No. 6.—SCALE.

53 Vic. No. 9,
Sch. III.

For every warrant of distress	...	...	Two shillings.
For man in possession, each day or part of a day	...	...	Five shillings.
For inventory, sale, commission, and delivery of goods	...	...	Not exceeding one shilling in the pound on the proceeds of the sale.

Mileage—For every mile or part of a mile where the warrant is executed not more than two miles from the office of the Board One shilling.
 Where such distance exceeds two miles, for every mile beyond Six pence.

53 Vic. No. 9, No. 7.—NOTICE UNDER "THE METROPOLITAN WATER AND SEWERAGE ACT OF 1909."

To Mr.

Notice is hereby given that the sum of pounds shillings and pence is now due and unpaid to the Board for [*specifying rate*] rates in respect of [*or for moneys payable for water supplied by meter by the Board to the occupier of (or as the case may be)*] allotment No. of section No. [*or portion No.*], situated in street [*or road or other situation*].

Payment of the said sum is hereby demanded.

If the said sum is not paid within six months from the date of this notice, the Board will take possession of and lease the said land, under the abovementioned Act.

President [*or Secretary*].

Office of the Board,
Brisbane,

19 .