

Queensland



ANNO TRICESIMO TERTIO

ELIZABETHAE SECUNDAE REGINAE

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No. 113 of 1984

**An Act to consolidate and amend the law relating to the planning, further development, administration and operational control of bulk supply of water by Gladstone Area Water Board to Local Authorities, major consumers and for electricity generating purposes and for related purposes.**

[ASSENTED TO 18TH DECEMBER, 1984]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. **Short title.** This Act may be cited as the *Gladstone Area Water Board Act 1984*.

2. **Commencement.** (1) Section 1 and this section shall commence on the day on which this Act is assented to for and on behalf of Her Majesty.

(2) Except as provided by subsection (1), this Act or the provisions thereof specified in the Proclamation shall commence on the day or days appointed by Proclamation for the commencement of this Act or, as the case may be, those provisions.

3. **Arrangement of Act.** This Act is divided into Parts and Divisions of Parts as follows:—

PART I—PRELIMINARY (ss. 1–6);

PART II—OPERATIONAL AREA OF THE BOARD (s. 7);

PART III—GLADSTONE AREA WATER BOARD (ss. 8–20);

*Division 1—Constitution of Board;*

*Division 2—Composition of Board;*

*Division 3—Control of Board's Affairs;*

PART IV—FUNCTIONS AND POWERS OF THE BOARD (ss. 21–38)

*Division 1—General Functions;*

*Division 2—General Powers;*

PART V—SUPPLY AND USE OF WATER (ss. 39–54);

*Division 1—Control of Water;*

*Division 2—Protection of Water Quality;*

*Division 3—Discontinuance or Lessening of Supply of Water;*

PART VI—FINANCIAL PROVISIONS (ss. 55–87);

*Division 1—Power to Charge for Water;*

*Division 2—Financial Arrangements;*

*Division 3—Investment of Surplus Board Funds;*

*Division 4—Funds of Board;*

*Division 5—Accounts and Audit;*

*Division 6—Special Financial Arrangements;*

PART VII—TAKING AND HOLDING LAND BY THE BOARD (ss. 88–93);

*Division 1—Acquisition of Land;*

*Division 2—Rateability of Land;*

PART VIII—CONDUCT OF THE BOARD'S AFFAIRS (ss. 94–115);

*Division 1—Proceedings and Business of Board;*

*Division 2—Remuneration Fees and Expenses;*

*Division 3—Employees of Board;*

PART IX—MISCELLANEOUS PROVISIONS (ss. 116–135).

**4. Order in Council inoperative, repeal and savings.** (1) The Order in Council made pursuant to the provisions of the *State and Regional Planning and Development, Public Works Organization and Environmental Control Act 1971–1973*, dated the twentieth day of December 1973 and published in the Gazette dated the 21st December 1973 from and including page 2081 to and including page 2088, as amended, in this Act referred to as “the repealed Order in Council”, shall cease to be of any force or effect on and from the day of commencement of this Act.

(2) The provisions of section 20 (1) and (2) of the *Acts Interpretation Act 1954–1977* apply in respect of the repealed Order in Council.

(3) The *Gladstone Area Water Board Act 1975* hereinafter in this Act referred to as “the repealed Act” is repealed.

**5. Governor in Council may make provision.** (1) If in respect of—

(a) the transition from the law in force before the commencement of this Act to the provisions of this Act;

(b) the transition of the Board from operating under the authority of the *State Development and Public Works Organization Act 1971–1981*, and the repealed Act and the repealed Order in Council to operating under the authority of, and with the functions, authorities, powers and duties conferred or imposed on it by, the several provisions of this Act; or

(c) the continuity of existence of the Board including the continued vesting in the Board of any property of whatever kind,

it appears to the Governor in Council that no provision or no sufficient provision is made to effectuate that transition or continuity, he may by Order in Council make such provision as he thinks fit with respect thereto providing for and supplying that omission or insufficiency, and that provision shall have effect accordingly.

(2) Section 28A of the *Acts Interpretation Act 1954–1977* (Tabling of Regulations) shall apply with respect to Orders in Council made for the purposes of this section and, for the purposes of such application, that section shall be read and construed as if references to regulations were references to Orders in Council made for the purposes of this section.

**6. Meaning of terms.** In this Act, save where a contrary intention appears—

“Board” means the body corporate preserved, continued in existence and constituted under this Act by the name Gladstone Area Water Board;

- “Chairman” means the Chairman of the Board;
- “dam” means a barrier, together with its appurtenant works, for the storage, control or diversion of water;
- “Director” means the Director of Local Government for the State of Queensland;
- “financial arrangements” shall have the meaning ascribed to it in the Statutory Bodies Financial Arrangements Act 1982;
- “headworks” means any dam (including any pipes in outlet works or laid under a dam), reservoir, structure, building, well, bore tank, aqueduct, tunnel, engine, pump or equipment used for or in connexion with the storage, control or diversion of water;
- “interim Board” means the interim Board that holds office pursuant to section 9;
- “Land Court” means the Land Court constituted by the *Land Act* 1962–1984;
- “Local Authority” means any Local Authority for the State of Queensland constituted under the *Local Government Act* 1936–1984 and includes a Joint Local Authority constituted under that Act;
- “Local Authority Area” or “Area” means the district in which a Local Authority or Joint Local Authority as the case may be, has jurisdiction, including any place under the control of the Local Authority or Joint Local Authority outside the boundaries of the Area;
- “major consumer” means an individual or corporation or statutory authority to whom the Board supplies or proposes to supply, under such terms and conditions as the Board considers proper, bulk water in an amount in excess of 200 megalitres per annum;
- “manager” means the person appointed by the Board to be manager of the Board and includes the officer of the Board for the time being performing the duties of manager;
- “Minister” means the Minister for Local Government, Main Roads and Racing or other Minister of the Crown who at the material time is charged with the administration of this Act and includes any person who is temporarily performing the duties of the Minister;
- “operational area” means the operational area of the Board as declared by Part II;
- “reservoir” means any artificial lake, pond or basin formed by the construction of a dam;
- “town planning scheme” means a scheme for town planning approved by the Governor in Council pursuant to the *Local Government Act* 1936–1984: The term includes a bylaw made by a Local Authority pursuant to Section 33 of the *Local Government Act* 1936–1984 to regulate and control the subdivision and the use of land and the erection or use

of buildings or other structures on land in the Area or part of the Area to be included within a town planning scheme pending the coming into force of the scheme;

“ treatment works ” means any building, storage tank, mechanical and electrical equipment of every description or other part of any works that is used primarily for the quality control or purification of water and includes all mains contained therein or used in association therewith;

“ trunk main ” or “ main ” means any pipe, aqueduct, syphon or facility used in association therewith (including a pump, motor, a water storage structure, an air vessel, a water meter, structure, building, pre-chlorination equipment, mechanical and electrical equipment and other apparatus and equipment of every description) that is used for or in connexion with the pre-chlorination or conveyance of water from headworks, or to or from treatment works.

#### PART II—OPERATIONAL AREA OF THE BOARD

7. **Establishment of Area.** The Local Authority Areas comprising Gladstone City and Calliope Shire are hereby declared to be the operational area of the Gladstone Area Water Board.

#### PART III—GLADSTONE AREA WATER BOARD

##### *Division 1—Constitution of Board*

8. **Gladstone Area Water Board.** (1) Subject to this Act, the body corporate duly established pursuant to a Notification dated 16 August 1973 as a Project Board, to which has been assigned, by Order in Council dated 16 August 1973 and published in the Gazette on 18 August 1973 on page 2843, the name and style of Gladstone Area Water Board is hereby preserved, continued in existence and constituted as a body corporate pursuant to the provisions of this Act under that name, that is to say, Gladstone Area Water Board.

(2) The Board shall have the functions, authorities, powers and duties conferred or imposed on it by the several provisions of this Act.

(3) The Board shall continue to have perpetual succession and a common seal and shall be capable in law of suing and being sued in its corporate name, and subject to this Act and for the purpose of discharging its functions pursuant to this Act, of taking, acquiring, holding and disposing of land and other property whether real or personal, moveable or immovable (which land and other property is vested or deemed to be vested in the Board according to the nature of the estate and interest therein), of granting and taking leases of land and other property and of doing and suffering all such other acts, matters and things as bodies corporate may in law do or suffer.

(4) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Board affixed to any document and shall presume, unless the contrary is proved, that it was duly affixed.

(5) The Board shall from time to time provide and maintain or contract for the use of a public office within the operational area for the purpose of transacting the business of the Board.

*Division 2—Composition of Board*

**9. Continuation of current Board members.** The term of appointment being served by the members of the Board immediately prior to the commencement of this Act is extended so that those members shall, subject to this Act, continue as an interim Board until the date on which the terms of appointment of the members who are to first constitute the Board under this Act commence and no longer.

**10. Constitution of the Board under this Act.** The members who are to first constitute the Board under this Act shall be as follows:—

- (a) two persons, members of Gladstone City Council, nominated by that Council for appointment;
- (b) two persons, members of Calliope Shire Council, nominated by that Council for appointment;
- (c) the Director or his nominee who shall, *ex officio*, be Chairman;
- (d) the Director of Industrial Development or his nominee;
- (e) the Commissioner for Water Resources or his nominee.

**11. Nominee's names to be furnished to Minister.** As soon as possible after the day of commencement of this Act and thereafter, from time to time, within a reasonable time before the expiration of the term of appointment of members of the Board, the Minister shall request in writing Gladstone City Council and Calliope Shire Council and each Government department entitled to membership of the Board in accordance with this Act, to furnish to him, within the time limited in the request, the names of its nominees or the name of its nominee (as the case may be) for appointment to the Board.

**12. Action upon default in complying with Minister's request.** If at any time default is made by a Local Authority or a Government department in furnishing as duly requested by the Minister the names of persons (or the name of a person) nominated for appointment to the Board or any of the persons nominated is not qualified as prescribed for such appointment the Minister may at his discretion nominate such numbers of persons as are required by the nomination in respect of which default has been made and the Minister's nomination shall be deemed to have been made by that Local Authority or Government department.

**13. Date for nomination of Local Authority's nomination.** Where the Minister makes of a Local Authority a request referred to in section 11 during the term of appointment of a Board constituted under this Act,

the time limited therein for furnishing the names of the nominees of the Local Authority shall be such that it will expire on a date later than the day on which is held the first meeting of the Local Authority following the election by reference to which the term of appointment of its members of the Board are, by this Act, expressed to expire.

**14. Appointment of members of Board.** (1) The members of the Board constituted under this Act shall be appointed by the Governor in Council, on the recommendation of the Minister, by notification published in the Gazette, and shall take office pursuant to the provisions of this Act.

(2) The Board first constituted under this Act shall be taken to be duly constituted upon the publication in the Gazette of notification of the first appointment of its members being the whole number of persons duly nominated for appointment.

**15. Term of appointment.** (1) The term of appointment of each member of the Board first constituted under this Act shall commence on the date of notification in the Gazette of his appointment or such later date as is therein specified in that behalf.

(2) The term of appointment of a member of the Board who is appointed during the term of office of existing members of the Board shall commence on the date of notification in the Gazette of his appointment or such later date as is therein specified in that behalf.

(3) Save as is prescribed by subsection (2), the term of appointment of each member of the Board constituted subsequently to its first constitution under this Act shall commence on the first day of July next following the day on which the term of appointment of members of the Board expires in accordance with this section.

(4) The term of appointment of each member of the Board constituted under this Act, shall expire on the last day of June next following the day prescribed by the *Local Government Act 1936-1984* for holding the triennial elections next following the commencement of his appointment.

(5) Every member of the Board first constituted under this Act shall, if duly nominated and qualified under this Act, be eligible for re-appointment to the Board.

**16. Termination of membership of Board.** (1) A member of the Board may resign his office as such at any time, by writing furnished to the Minister.

(2) The Governor in Council may remove from office, as such, a member of the Board if—

(a) he is made bankrupt or otherwise takes advantage of the laws relating to bankruptcy;

(b) in the opinion of the Governor in Council—

(i) he becomes incapable of discharging the duties of his office; or

(ii) he is incompetent or unfit to hold his office.

(3) A member of the Board shall be deemed to have vacated his office—

- (a) in the event of his resignation, upon receipt by the Minister of his notice of resignation;
- (b) in the event of his removal, upon issue by the Minister of notice of his removal;
- (c) if, being a nominee of a Local Authority on the Board—
  - (i) he ceases to be a member of that Local Authority otherwise than by his defeat at an election of members of that Local Authority or by his failure to contest such an election; or
  - (ii) the Area of the Local Authority of which he is a member ceases to be within the operational area; or
  - (iii) that Local Authority has informed the Minister in writing that by its resolution it no longer desires the person in question to be its nominee on the Board;
- (d) if, being a nominee of a Government department on the Board—
  - (i) the department of which he is the nominee ceases to be entitled to membership of the Board; or
  - (ii) that department has informed the Minister in writing that it no longer desires the person in question to be its nominee on the Board; or
- (e) if he is convicted in the State of an indictable offence for which he is liable to imprisonment for one year or more or is convicted elsewhere of an offence such that, if committed by him in the State, would constitute an indictable offence upon conviction whereof he would be so liable.

**17. Casual vacancy in membership of Board.** (1) A casual vacancy shall be taken to arise in the office of a member of the Board—

- (a) if he dies in office; or
- (b) if his office becomes vacant as prescribed by section 16 (3).

(2) If a casual vacancy occurs in the office of a member of the Board during the currency of his term of appointment another person may be appointed to fill that office in accordance with section 14.

(3) For the purpose of making an appointment to a casual vacancy in the office of a member of the Board section 11 shall apply save that a request to be made by the Minister for that purpose shall be made as soon as practicable after the vacancy occurs.

(4) The term of appointment of a person appointed to fill a casual vacancy shall continue for as long as the term of appointment of his predecessor would have continued had the casual vacancy not occurred.

**18. Delegate members of Board.** (1) A person may be nominated as a delegate member of the Board to deputise for a member of the Board.

A nomination of a delegate member shall be of no effect unless—

- (a) he is nominated as prescribed by this section; and



- (b) he is a person qualified as prescribed to be nominated as a member of the Board in the office of the member for whom he is to deputise.
- (2) The nomination of a delegate member—
- (a) shall, where it is for the purpose of two or more consecutive meetings of the Board, be made by the Local Authority or department that nominated such member of the Board; and
- (b) may, in any other case, be made by the member for whom the delegate member is to deputise.
- (3) A nomination of a delegate member—
- (a) may be made only if the member for whom a delegate is sought will be absent from any meeting or meetings of the Board because of illness or other unavoidable reason;
- (b) if it is to continue in effect for a period of three months or more, may be made only with the approval of the Minister first had and obtained.
- (4) For as long as his nomination as such continues in effect a delegate member shall be entitled to attend meetings of the Board in the absence of the member for whom he is deputising and shall be deemed to be a member of the Board.
- (5) A nomination of a person as a delegate member shall terminate and be of no further effect—
- (a) in the case of a nomination expressed to be for the purpose of any meeting or meetings of the Board, upon the conclusion of that meeting or, as the case may be, the last of those meetings;
- (b) in the case of a nomination expressed to be for a period, upon the expiration of that period;
- (c) if the member for whom he is deputising dies or vacates his office as prescribed by section 16;
- (d) upon the occurrence of any event that would cause his vacating office as a member were he a member of the Board.

**19. Persons deemed to be members of Local Authority.** If a Local Authority that has nominated persons to be members of the Board is dissolved pursuant to the *Local Government Act 1936–1984* and an Administrator is, under that Act, deemed to be the Local Authority it shall be deemed for the purposes of this Act that the Local Authority continues in being and has as its members the Administrator and one further nominee whose name has been submitted by the Administrator to the Minister and approved by him.

*Division 3—Control of Board's Affairs*

**20. Deputy Chairman.** The Board shall from time to time appoint one of its members to be Deputy Chairman.

An appointment to the office of Deputy Chairman shall be made as soon as practicable after the appointment of members of the Board being the whole number of persons duly nominated for appointment.

The Deputy Chairman shall act in the office of Chairman during such time as the Chairman is prevented by absence, illness or otherwise from performing the duties of that office and during such time as a vacancy exists in that office, and while he so acts, shall have and may exercise all the powers and authorities of the Chairman.

PART IV—FUNCTIONS AND POWERS OF THE BOARD

*Division 1—General Functions*

**21. Functions.** (1) The Board's functions are—

- (a) to conserve, store and supply untreated water in bulk to points determined by the Board to—
  - (i) Local Authorities whose Areas are within the operational area; and
  - (ii) major consumers as defined in this Act within the operational area;
- (b) to conserve, store, treat and supply treated water in bulk to points determined by the Board to—
  - (i) Local Authorities whose Areas are within the operational area; and
  - (ii) major consumers as defined in this Act within the operational area;
- (c) to conserve, store and supply with the prior approval of the Minister untreated water in bulk to points determined by the Board to electricity generating authorities whether within the operational area or otherwise;
- (d) to sell to its consumers water in bulk, whether treated or untreated, and under such terms and conditions as the Board considers proper;
- (e) to investigate and plan for such future headworks, treatment works and trunk mains as, in the Board's opinion, may be required to meet the requirements for the supply of water as a function of the Board and to take all steps deemed by the Board to be practicable to implement plans and schemes accepted for such headworks, treatment works and trunk mains;
- (f) to take all steps adjudged by the Board to be necessary or desirable to ensure and maintain the quality and quantity of present and future supplies of water in the operational area;
- (g) to construct, operate and maintain and, where necessary, to improve or extend headworks, treatment works and trunk mains under the Board's control;
- (h) to provide such roads and communications, offices, stores, depots, houses and other accommodation as the Board adjudges to be necessary to meet the requirements of its undertakings or any of them;
- (i) to administer and manage all property vested in the Board;

- (j) to take such measures and to carry out such works as are incidental to the proper discharge of the aforesaid functions of the Board;
- (k) to provide, operate, protect and maintain such recreational facilities as the Board sees fit at headworks or on any other land or property owned by or under the control of the Board and to enter into commercial ventures incidental to the operation of those recreational facilities and to let out to other persons the operation of those facilities or ventures.

(2) The Board may, with the approval of the Minister, supply water in bulk whether treated or untreated to points determined by the Board to a part of the Area of a Local Authority whose Area is outside the operational area or to a major consumer located outside the operational area.

*Division 2—General Powers*

**22. Construction by Board.** The Board may construct such headworks, trunk mains, treatment works and other works as it considers to be necessary for the purposes of this Act.

**23. Board may make contracts and arrangements.** (1) The Board may—

- (a) for the purpose of performing any of its functions, make contracts or enter into arrangements with any Local Authority with respect to the operation and maintenance of the headworks, treatment works and trunk mains of the Board and with respect to such other services to be provided by the Board as it considers necessary or desirable;
- (b) make contracts for or in connexion with the discharge of any of its functions or the exercise of any of its powers under this Act.

(2) A contract made or arrangement entered into by the Board with a Local Authority under paragraph (a) of subsection (1) shall, while it subsists, be lawful authority for the Local Authority and its servants to perform the terms and conditions of the contract or arrangement.

(3) Save as is otherwise prescribed by this Act, a contract authorized by this Act shall be made in the name of the Board as follows:—

- (a) a contract that if made between private persons would by law be required to be in writing and under seal shall be made by the Board in writing and under its seal;
- (b) a contract that if made between private persons would by law be required to be in writing signed by the parties may be made in writing signed by the Chairman or two members of the Board;

(c) a contract that if made between private persons would by law be valid although not reduced to writing may be made without writing by the Chairman or two members of the Board.

(4) A contract duly made in a manner prescribed by subsection (3) may be varied or discharged in the manner in which it is authorized to be made.

(5) Notwithstanding the provisions of paragraphs (b) and (c) of subsection (3) the Board may authorize the manager or another of its officers (either generally or in a particular case), in lieu of the Chairman or any two members referred to in those paragraphs, on its behalf to enter into contracts referred to in either of those paragraphs for the execution of any works or the furnishing of any goods or any materials of a value not exceeding \$10 000 or such other amount as the Governor in Council from time to time by Order in Council determines, if—

(a) provision for meeting the cost of any such contract has been made in the budget; or

(b) the cost of any such contract has been approved by the Board in emergent or extraordinary circumstances,

and the manager or the officer may enter into such a contract, if it is a contract that is specified in paragraph (b) of subsection (3) in the manner specified in that paragraph or if it is a contract that is specified in paragraph (c) of subsection (3) in the manner specified in that paragraph and may vary or discharge the contract in the same manner.

**24. Provisions affecting contractual powers of Board.** (1) The Board may, with the approval of the Governor in Council and with such limitations and under such conditions as he may impose, agree to pay, by instalments extending over a period of time in respect of any obligation lawfully accepted by it.

(2) Before a contract—

(a) for the execution of any work or the furnishing of goods or materials to an amount exceeding \$10 000 or such other amount as the Governor in Council from time to time by Order in Council determines;

(b) for the sale of surplus goods or materials to a value exceeding \$1 000 or such other amount as the Governor in Council from time to time by Order in Council determines; or

(c) for the sale of land,

is entered into by the Board it shall, at least three weeks before entering into the contract, invite tenders for the contract by public notice published in such newspaper or newspapers and in such manner and to such extent as in its opinion will ensure that the notification of its intention is likely to be seen by as many as possible of people who are likely to tender for the contract.

(3) Before a contract—

(a) for the execution of any work or the furnishing of any goods or materials to an amount exceeding \$1 000 or such other amount as the Governor in Council from time to time by

Order in Council determines but not exceeding \$10 000 or such other amount as the Governor in Council from time to time by Order in Council determines;

- (b) for the sale of surplus goods or materials to a value not exceeding \$1 000 or such other amount as the Governor in Council from time to time by Order in Council determines,

is entered into by the Board, it shall invite quotations for the contract in such manner and to such extent as will in its opinion ensure the receipt of a reasonable number of quotations.

(4) Notwithstanding the provisions of subsections (2) or (3), the Board, in the case of a sale of land or any surplus goods or materials, may, where the value of the land, goods or materials is in the opinion of the Board less than \$500 or such other amount as the Governor in Council from time to time by Order in Council determines, effect a sale in such manner as it thinks fit.

(5) The procedure specified in subsection (2) or (3) may be dispensed with where in the Board's opinion an emergency exists.

(6) In respect of a sale of land or of surplus goods or materials the Board, in lieu of complying with subsection (2) or (3), may comply with this subsection.

The Board may sell land or surplus goods or materials by public auction or private contract but no such sale shall be made by private contract unless and until the land, goods or materials have been offered for sale by public auction and not sold.

The Board shall, at least once within a period not more than 14 days and not less than 7 days before the date on which it proposes to offer for sale by public auction any land or surplus goods or materials, advertise in a newspaper the day, time and place when and where the public auction will take place together with a full description of the land or, as the case may be, surplus goods or materials in question.

In the case of land the Board shall, not more than 14 days and not less than 7 days before the date on which it proposes to offer the land for sale by public auction, affix on some conspicuous part of the land a notice setting out the day, time and place when and where the public auction will take place and a full description of the land.

An offer for sale by public auction to which this subsection applies may be at a reserve price determined by the Board.

(7) The provisions of subsections (2), (3), (4), (5) and (6) do not apply to the following dealings which the Board is hereby empowered to effect by private contract—

- (a) contracts or arrangements made by the Board with the Crown or with any public authority constituted pursuant to an Act or an Act of the Commonwealth or an Act of any State (other than Queensland) or Territory of the Commonwealth;
- (b) contracts for the transfer of land to a person in satisfaction of the whole or part of any claim for compensation by that person against the Board;

- (c) contracts for the sale of land to the registered proprietor of, or owner of an estate in fee simple in, adjoining land—
  - (i) where the land to be sold is of insufficient area or is of a shape that cannot be developed satisfactorily as a separate allotment unless it is amalgamated with that adjoining land;
  - (ii) where the area of that adjoining land is insufficient to allow its development for a purpose that is permissible under a town planning scheme or local authority by-law in force in the locality in which that adjoining land is situated;
  - (iii) where the area of that adjoining land is less than 400 square metres, or the area or the frontage of that land is less than the minimum area or frontage fixed, by local authority by-law, as the minimum area or frontage of an allotment required for a new subdivision of land in the locality in which that adjoining land is situated;
- (d) contracts, not otherwise authorized by this subsection for the exchange of land with any person, subject to the prior approval of the Minister at the request of the parties to the proposed contract.

In provision (c) the term “ purpose ” includes the parking of vehicles associated with the conduct of that purpose and the term “ insufficient ” means insufficient in the opinion of the Board.

(8) Subject to this Act, the Board may accept the tender or quotation that on a view of all the circumstances appears to it to be the most advantageous or may decline to accept any tender or quotation.

(9) In determining which tender or quotation is the most advantageous in respect of a contract for the furnishing of goods or materials to be financed wholly or partly by way of money borrowed or raised pursuant to section 56 or by way of grant or subsidy paid by the Treasurer of Queensland the Board shall take into consideration the requirements of the Treasurer of Queensland at the material time in relation to the granting of preference to manufacturers.

**25. Power of entry.** (1) For the purpose of discharging any of its functions the Board may provide such works as are necessary on, through, across, under or over any road and into, through, across, under or over any land within or outside the operational area.

(2) For the purpose of discharging any of its functions the Board, by its agents and servants, may at all reasonable times enter upon any land, structure or premises—

- (a) to carry any works into, through, across, under or over the land;
- (b) to undertake investigations and inspections, perform surveys, take levels, clear, excavate, dig and remove material on and from the land;
- (c) to execute any work in the structure or premises;
- (d) to ensure that the provisions of this Act or of the by-laws of the Board are complied with.

(3) (a) A person who claims to have suffered damage resulting from an exercise of power under subsection (1) or (2) may apply for and be awarded compensation in accordance with this subsection.

(b) Every application for compensation on account of such damage shall be made and dealt with in the manner prescribed by the *Acquisition of Land Act 1967-1977* in relation to applications for compensation made under that Act and the entitlement to such compensation (including right of appeal in respect thereof) and the assessment of such compensation shall be as prescribed by that Act in so far as the provisions of that Act are appropriate to a claim for compensation made on account of damage and subject always to the provisions of this section.

(c) Compensation that may be payable on a claim made on account of damage resulting from an exercise of power under subsection (1) or (2) may include compensation in respect of—

- (i) damage of a temporary nature as well as of a permanent nature; and
- (ii) the taking of clay, earth, gravel, sand, timber, wood and other material,

but shall not in any case exceed the amount that would have been payable under the *Acquisition of Land Act 1967-1977* had the land in question been taken by the Board.

(d) Where at the time when an application is made for compensation on account of damage resulting from an exercise of power under subsection (1) or (2) the works for or in connexion with which the power is exercised are not completed a member of the Land Court may, on the application of the Board, order that the matter of the application for compensation be deferred until the works are completed or for a time limited in the order and thereupon no further proceeding shall be had on the application for compensation (save an application hereinafter in this subsection referred to) until the completion of the works or, as the case may be, the expiration of the time so limited unless a member of the Land Court on the application of the applicant for compensation otherwise orders.

(4) (a) Before an agent or servant of the Board pursuant to a power conferred by this section enters a dwelling-house or part of a dwelling-house used exclusively for residential purposes, he shall, save where he has the permission of the occupier or person in charge of that dwelling-house or, as the case may be, part of a dwelling-house to his entry, obtain from a justice a warrant to enter.

(b) In this subsection, a dwelling-house or part of premises used for residential purposes does not include the curtilage thereof.

(c) A justice who is satisfied upon the complaint of an agent or servant of the Board that it is necessary for the purposes of this Act to enter premises may issue his warrant directed to the agent or servant to enter the place specified in the warrant for the purpose of exercising or performing therein the powers and duties conferred upon him under this Act.

(d) A warrant shall be, for a period of one month from the date of its issue, sufficient authority for the agent or servant of the Board and all persons acting in aid of him to—

- (i) enter the place specified in the warrant; and
- (ii) exercise and perform therein the powers and duties conferred upon him by or under this Act.

(e) For the purposes of gaining entry to any place an agent or servant of the Board may call to his aid such persons as he thinks necessary and those persons, while acting in aid of an agent or servant of the Board in the lawful exercise by him of his power of entry, shall have a like power of entry.

(5) Before an agent or servant of the Board enters upon any land, structure or premises to carry out works, investigations or surveys he shall, where practicable or save where he has the permission of the occupier or person in charge of that land, structure or premises to his entry, give to the occupier not less than seven days written notice of his intention to enter to carry out such works, investigations or surveys.

**26. Interference with roads.** (1) For the purposes of constructing, maintaining, repairing, altering or extending any main or installation in a road within or outside the operational area the Board may open up and excavate such road but, in connexion with the performance of such work, the Board shall comply with this section.

(2) Save in the case of work to be performed in an emergency the Board shall give not less than seven days notice in writing to the authority having the care and management of the road of its intention to perform the work in question.

In the case of work to be performed in an emergency the work may proceed without the prescribed notice having been given but advice shall be given as soon as practicable to the authority referred to in this subsection that the work is in progress.

- (3) When the Board has opened and excavated a road it shall—
- (a) with all convenient speed and as little interference to traffic as is practicable, complete the work for which it is opened and excavated and shall fill in the ground and reinstate and make good the parts so opened and excavated to as good a condition as before it was opened and excavated and shall carry away all rubbish occasioned by the work;
  - (b) at all times while the road is opened and excavated, cause the parts so opened and excavated to be fenced and guarded and a light sufficient for the warning of traffic to be set up and maintained against or near such parts every night during which the road is opened and excavated; and
  - (c) keep the parts so opened and excavated in good repair for three months after reinstating and making good the same and for any further time not exceeding 12 months during which the soil opened and excavated continues to subside.



**27. Board may take over or acquire Local Authority undertakings.**

(1) Subject to this Act, the Board may following agreement with a Local Authority—

- (a) assume from a Local Authority control of any headworks, treatment works or trunk mains in the operational area;
- (b) acquire from a Local Authority property used for or in connexion with any headworks, treatment works or trunk mains in the operational area;
- (c) assume from a Local Authority its liabilities and obligations had by it in connexion with any headworks, treatment works or trunk mains in the operational area.

(2) The powers conferred by subsection (1) do not extend to the assumption of control of headworks, treatment works and trunk mains, acquisition of property or assumption of liabilities or obligations of a Local Authority that is not within the operational area of the Board.

**28. Board to instigate exercise of powers under s. 27.** (1) For the purpose of exercising its powers under section 27 the Board may, by notice in writing given to a Local Authority, require the Local Authority to enter into negotiations for—

- (a) the assumption of control by the Board of headworks, treatment works or trunk mains described in the notice;
- (b) the acquisition by the Board of property described in the notice; and
- (c) the surrender to the Board of books, documents, drawings, records and papers relating to such headworks or property.

(2) Upon receipt of a notice referred to in subsection (1) the Local Authority shall cause to be prepared schedules of the headworks, treatment works or trunk mains or property described in the notice and of property held by it in connexion with the headworks, treatment works or trunk mains and of the liabilities and obligations had by it in relation to the headworks, treatment works or trunk mains or the property.

(3) As soon as practicable after the preparation of the schedules referred to in subsection (2) the Board and the Local Authority shall, if possible, agree upon—

- (a) what headworks, treatment works or trunk mains shall be controlled by the Board;
- (b) what property, liabilities and obligations of the Local Authority shall be acquired or assumed by the Board; and
- (c) what books, documents, drawings, records and papers shall be surrendered by the Local Authority to the Board.

**29. No entitlement to compensation.** Compensation shall not be payable—

- (a) to a Local Authority on account of the Board's assuming control of headworks, treatment works or trunk mains of the Local Authority or acquiring property of the Local Authority in the exercise of a power under this Act; or

- (b) to the Board on account of its assuming any liability or obligation of a Local Authority in the exercise of a power under this Act,

and the authority of the Board to enter into negotiations for the purpose of exercising its powers under section 28 does not extend to its agreeing to pay or give or to its agreeing to receive or take that compensation.

**30. Procedure for taking over control.** (1) Upon the Board and a Local Authority agreeing on the assumption by the Board of control of headworks, treatment works or trunk mains of the Local Authority they shall furnish to the Minister a joint notification that shall identify the headworks, treatment works or trunk mains concerned.

(2) The Governor in Council may by Order in Council declare a date on and from which control of the headworks, treatment works or trunk mains therein specified shall be assumed by the Board.

A date declared pursuant to this subsection may be before or after the date of making of the Order in Council or of its publication in the Gazette.

(3) On and from the date so declared the Board shall be responsible for the control, management and proper functioning of the headworks, treatment works and trunk mains so specified in the place of the Local Authority concerned.

**31. Procedure for acquisition of property or assumption of liabilities.**

(1) Upon the Board and a Local Authority agreeing with respect to—

- (a) the property of the Local Authority to be acquired by the Board; or  
(b) the liabilities and obligations of the Local Authority to be assumed by the Board,

they shall furnish to the Minister a joint notification that shall particularize in detail sufficient to enable its identification such property or, as the case may be, such liabilities and obligations.

(2) The Governor in Council may by Order in Council declare a date on and from which—

- (a) the property therein specified shall be divested from the Local Authority named therein and shall vest in the Board; or  
(b) the liabilities and obligations therein specified shall be assumed by the Board and shall cease to be liabilities or obligations of the Local Authority named therein.

A date declared pursuant to this subsection may be before or after the date of the making of the Order in Council or of its publication in the Gazette.

(3) Upon and after the date so declared—

- (a) the estate, right, title and interest in and to the property so specified shall by force of the order be divested from the Local Authority so named and be vested in the Board;

- (b) the Board shall by force of the order be liable in respect of each of the liabilities and obligations so specified and the Local Authority so named shall by force of the order cease to be liable in respect thereof.

**32. Enforcement of existing claims.** Subject to the express provisions of the Order in Council made in relation to a transfer of control or of property or of a liability or obligations from a Local Authority to the Board pursuant to section 30 or 31 such a transfer shall not prejudice the making or enforcement by the Local Authority against any person or by any person against the Local Authority of a claim liquidated or unliquidated that arose or was made before the date declared by such order for such transfer to take effect.

**33. Presumed privity of contract.** Where property (being a chose in action) or a liability or obligation transferred from a Local Authority to the Board pursuant to section 31 arises by reason of a contract made between the Local Authority and any person then for the purpose of enforcing by or against the Board such chose in action, liability or obligation it shall be deemed that such contract was made between the Board and that person.

**34. Board to be aided in securing property.** (1) Upon the request of the Board, a Local Authority that is divested of property pursuant to section 31—

- (a) shall surrender to the Board or its agent such documents of title and documents evidencing ownership of the property as are in its possession or under its control;
- (b) shall duly complete all transfers of right, title or interest and other documents that are required by the Board with a view to its being recorded in any registry as proprietor, lessee or owner of the property;
- (c) shall do all such acts and take all such steps as are required by the Board with a view to securing the property to the Board.

(2) Where property vested in the Board pursuant to section 31 consists of a chose in action the publication in the Gazette of the relevant Order in Council shall be sufficient notice to all persons to the passing of the property.

**35. Prescribed enactments inapplicable to dealings under this Act.**

(1) No stamp duty or other fees shall be chargeable on the following documents—

- (a) a notification evidencing an agreement between a Local Authority and the Board prepared for the purpose of section 31;
- (b) an instrument made to evidence the passing of an estate or interest in land from a Local Authority to the Board pursuant to section 31 or to secure the transfer of a title to such land;
- (c) a document made in connexion with the transfer of property, liability or obligation from a Local Authority to the Board pursuant to section 31.

(2) The provisions of any Act or enactment that purport to restrict the capacity of a Local Authority to enter into contracts do not apply in respect of the making of an agreement between a Local Authority and the Board with a view to the passing of property or the transfer of liabilities or obligations pursuant to section 31.

**36. Apportionment of liability.** Where for the purposes of this Act it becomes necessary to apportion between a Local Authority and the Board any liability or obligation of the Local Authority such apportionment may be made and shall be sought by way of agreement between the Local Authority and the Board but should such agreement not be attained the Governor in Council may declare the apportionment of that liability or obligation considered by him to be just and thereupon—

- (a) the portion of that liability or obligation to be assumed by the Board shall be the portion so declared; and
- (b) if the case require it, it shall be deemed that such portion is particularized in a notification duly furnished pursuant to section 31 as the liability or obligation to be assumed by the Board.

**37. Local Authority may take over or acquire Board undertakings.**

(1) Subject to agreement between the Board and a Local Authority, a Local Authority may take over or acquire Board undertakings.

(2) The procedure for a Local Authority taking over or acquiring Board undertakings shall with all necessary modifications and adaptations to ensure the effective operation of this Act be as provided in sections 27 to 36 both inclusive, as if a Local Authority were taking over or acquiring Board undertakings rather than the Board taking over or acquiring Local Authority undertakings as provided for.

**38. Power of delegation.** (1) The Board may by writing under its seal either generally or otherwise as provided by the instrument of delegation delegate to any of its members, or to any officer or employee of the Board all or any of its powers, authorities, functions and duties except this power of delegation, its duties in relation to the adoption of the annual budgets of its several Funds and any other power, authority, function or duty required to be exercised by resolution.

The Board may make such and so many delegations of the same power, authority, function or duty and to such number of persons as it considers necessary or desirable.

(2) A delegation may be made subject to such terms or limitations as the Board thinks fit including a requirement that the delegate shall report to it on the exercise or performance of the delegated power, authority, function or duty.

(3) A power, authority, function or duty so delegated, if exercised or performed by the delegate, shall be exercised or performed in accordance with the instrument of delegation.

- (4) A delegation does not prevent or prejudice—
  - (a) the exercise of a delegated power or authority or the performance of a delegated function or duty by the Board; or
  - (b) the exercise by the Board of supervision of the carrying out by the delegate of the terms of the delegation.
- (5) A delegation is revocable at the will of the Board.

PART V—SUPPLY AND USE OF WATER

*Division 1—Control of Water*

**39. Board's entitlement to water.** (1) Subject to this section the Board may take water from any headworks under its control or from any river, creek or stream, whether or not subject to tidal influence, in the operational area and for that purpose may construct, maintain, control and operate such headworks, treatment works and trunk mains as it considers necessary.

- (2) The Board shall not take water pursuant to subsection (1) unless—
  - (a) it does so with the consent of the Governor in Council first had and obtained and subject to and in accordance with the terms and conditions of such consent; or
  - (b) where the consent of the Governor in Council has been obtained by a Local Authority to its taking water and the Local Authority's entitlement to take such water has been divested from the Local Authority and vested in the Board pursuant to section 43, subject to and in accordance with the terms and conditions of that consent.

**40. Procedure for obtaining consent.** (1) Application for the consent of the Governor in Council shall be made by the Board to the Director who shall refer the matter to the Commissioner of Water Resources for investigation.

(2) The Commissioner shall cause an investigation to be made with respect to the application and shall make a report and recommendation for submission by the Minister to the Governor in Council.

(3) The Governor in Council may in his absolute discretion grant or refuse an application and, if he grants it, may subject his consent to such terms and conditions as he thinks fit.

**41. Board to control water storage.** (1) The Board shall have control of the water in any storage utilized in the Board's undertaking and control of the use that may be made of the water therein from time to time.

(2) The power of the Board to control the extraction and use for rural, industrial, mining or domestic purposes of water from any storage in the Board's control shall be to the exclusion of any other person or authority.

(3) The power of the Board to control the use for any recreational purpose of water in any storage in the Board's control shall be additional to that of any other person or authority charged with control of such water.

Where a by-law of the Board is inconsistent with a regulation, by-law or rule administered by any other person or authority in respect of the use of water in any storage in the Board's control the former shall prevail and the latter shall, to the extent of the inconsistency have no force or effect.

**42. Protection of Board upon taking water.** No action or other proceeding shall be commenced or maintained against the Board or any other person on account of—

- (a) the construction, maintenance, control or operation of headworks, or any part thereof, for the purpose of taking water pursuant to this Act;
- (b) any alleged obstruction of any river, creek or stream by such headworks or any part thereof;
- (c) any deprivation of access to or diminution of the quantity of water in any river, creek or stream occasioned by the exercise by the Board of a power conferred by section 39.

**43. Cessation of Local Authority's entitlement to water.** (1) Upon the Board assuming control of headworks upon rivers, creeks or streams the entitlement then had by a Local Authority to take water from such headworks or downstream from such headworks shall thereupon be divested from the Local Authority and vest in the Board.

(2) Save as is prescribed by subsection (1), neither this Act nor anything done under this Act shall affect the entitlement of a Local Authority to take water from any river, creek or stream or other source of supply.

**44. Allocations of water.** (1) Subject to this Act, the Board may from time to time fix and declare an allocation of water to each Local Authority, major consumer or electricity generating authority, to which it is empowered to supply water pursuant to this Act.

Where an allocation of water has been fixed and declared the Board may at any time, of its own motion, fix and declare afresh an allocation of water.

(2) In the matter of—

- (a) fixing and declaring allocations of existing supplies of water from headworks under the control of the Board; and
- (b) planning headworks to meet increasing requirements for supply of water for urban and industrial use,

the Board shall have regard to the need for water of the operational area as a whole and to all existing requirements for and commitment of water for urban and industrial use drawn from sources within the operational area or supplied within the operational area from sources outside the area.

(3) The Board may make the matter of fixing and declaring an allocation of water to a Local Authority dependent upon that Local Authority satisfying the Board by means of an agreement or agreements made or to be made with one or more other Local Authorities that it is or will be bound to convey and to continue to convey, through mains within its Area, to such other Local Authority or Local Authorities, being in any case an authority to which an allocation of water has been or is to be fixed and declared by the Board, a determinate part of the allocation to the first-mentioned Local Authority.

**45. Exchange of information on water requirement.** (1) Each Local Authority, major consumer and electricity generating authority shall keep the Board informed of—

- (a) anticipated requirements for water; and
- (b) all relevant facts concerning the proposed source of supply for such requirements for water and the anticipated dates when increased quantities of water to meet such requirements may be required.

(2) The Board shall from time to time inform each Local Authority, major consumer and electricity generating authority of the likelihood of its requirements for water, as disclosed to the Board, being met by the Board.

**46. Solution of disputes between Board and Local Authority.** (1) If a dispute arises between the Board and a Local Authority as to—

- (a) the quantity of water that will be allocated to the Local Authority; or
- (b) the timing, source or other aspect of supply of water to the Local Authority,

either party may refer the matter in issue to the Minister who may cause to be made such investigations as he considers necessary and who shall make such recommendations with respect thereto as he thinks fit to the Governor in Council who shall determine the issue by Order in Council.

(2) A determination of the Governor in Council pursuant to subsection (1) shall bind the Board and the Local Authority concerned, both of whom shall take all steps necessary to give effect to it.

**47. Board may assist Local Authority in distributing and treating water.** If the Board's assistance is sought by a Local Authority in respect of the distribution or treatment of a supply of water within or through its Area and within the operational area the Board may provide such assistance on such terms and conditions as are agreed.

*Division 2—Protection of Water Quality*

**48. Regulation of use of catchment area.** (1) For the purpose of protecting the quality of water stored or to be stored in a reservoir of which the Board has assumed control or proposes to assume control or which it has constructed, is constructing or proposes to construct, the Governor in Council may make regulations pursuant to section 122 to regulate, control and prohibit—

- (a) the subdivision, use and management of use of land within a catchment area (as defined in the regulations) for such reservoir or within particular parts of such catchment area; and
- (b) the erection and use of buildings and structures on such land.

(2) Subject to consultation first had between the Minister, the Board and each Local Authority whose Area includes land that is included in or is proposed to be included in the catchment area (defined or to be defined in the regulations) regulations made pursuant to the power conferred by subsection (1) may prescribe guidelines to be observed by the Local Authority to whom the regulatory provision is directed in respect of the preparation or amendment of a town planning scheme, the making of by-laws and the implementation of a town planning scheme or by-laws, which in any case affects or is likely to affect land within such catchment area.

**49. Effect of regulations under s. 48 on powers, etc.** (1) Subject to subsection (2), a power or authority had by the Board, a Local Authority or other person, independently of regulations referred to in section 48, to take steps to protect the quality of water stored or to be stored in any reservoir shall not be prejudiced by the conferring by section 48 of power to make regulations therein referred to or by such a regulation made.

(2) If a regulation made pursuant to the power conferred by section 48 is inconsistent with the continued existence, wholly or in part, of a power or authority of a description referred to in subsection (1), other than a power or authority conferred by or under the *Clean Waters Act 1971–1982*, the regulation shall prevail and, to the extent of the inconsistency, such power or authority shall be taken not to exist.

(3) Regulations made pursuant to the power conferred by section 48 shall bind the Board, each Local Authority whose Area includes land to which the regulations relate and all other persons of a class that the regulations purport to bind.

**50. Effect of regulations under s. 48 on rights.** (1) If a regulation made pursuant to the power conferred by section 48 is inconsistent with the continued existence, wholly or in part, of a right or entitlement to use or develop land within the catchment area to which the regulation relates, had by any person at the time the regulation takes effect, the regulation shall prevail and, to the extent of the inconsistency, such right or entitlement shall be taken to have terminated upon the taking effect of the regulation.



(2) A right or entitlement terminated under subsection (1) shall upon such termination and to the extent thereof, be converted into an entitlement to claim compensation in respect of injurious affection of an estate or interest in land as if the regulation were a lawful provision of a town planning scheme of the Local Authority in whose Area the land affected is situated.

**51. Effect of regulations on town planning applications.**

(1) Notwithstanding the provisions of any other Act or of any town planning scheme or by-law of a Local Authority, which in any case affects land to which regulations made pursuant to the power conferred by section 48 relate, where application is made to a Local Authority—

- (a) to amend its town planning scheme in a particular that affects such land; or
- (b) for its consent to the use of such land for a particular purpose; or
- (c) for a permit or licence to apply such land to a particular use; or
- (d) for its approval to a subdivision of such land,

the Local Authority shall observe the guidelines prescribed by such regulations.

(2) Any approval, consent, permit or licence of a Local Authority that is given in contravention of subsection (1) shall be of no force or effect.

**52. Board's liability for certain injurious affection.** Where a claim for compensation in respect of injurious affection of an estate or interest in land is made on a Local Authority by reason of the existence of regulations made pursuant to the power conferred by section 48 or by reason of a decision or action of the Local Authority taken in reliance on or obedience to such regulations and the Local Authority is required or, with the prior approval in writing of the Board, agrees to pay compensation to the claimant the amount of such compensation together with the amount of taxed costs (if any) shall be met by the Board and, if the case requires it, shall be refunded by the Board to the Local Authority.

*Division 3—Discontinuance or Lessening of Supply of Water*

**53. Board's power over supply.** Where in the opinion of the Board a breakdown of or damage, repairs, alterations or additions to the Board's headworks, treatment works, trunk mains, or drought or other natural occurrence, or an emergency of any description renders it necessary or expedient to discontinue or lessen the supply of water the Board may, on such notice as it thinks fit or without notice, direct such discontinuance or lessening of supply for such period as it considers necessary or expedient.

It shall be lawful to give effect to a direction of the Board given under this section.

**54. Manner of exercising s. 53 power.** (1) The Board's power to discontinue or lessen the supply of water under section 53 shall be exercised—

- (a) by resolution of the Board; or
- (b) where the Board has, by its resolution, delegated authority in that behalf to the Chairman or an officer of the Board or to a committee of the Board, by decision of the Chairman or that officer or, as the case may be, by resolution of that committee.

(2) Notice of the exercise of power under section 53 shall be served forthwith on any one or more than one of the following whose supply of water is or is likely to be affected by the discontinuance or lessening of supply to which the notice relates—

- (a) a Local Authority;
- (b) a major consumer;
- (c) an electricity generating authority.

#### PART VI—FINANCIAL PROVISIONS

##### *Division 1—Power to Charge for Water*

**55. Terms of water supply.** The supply of water by the Board to a Local Authority, a major consumer or an electricity generating authority shall be made upon such terms, at such prices, with such guarantees and securities for payment, and generally upon such conditions as the Board considers proper.

##### *Division 2—Financial Arrangements*

**56. Power to enter into financial arrangements.** (1) Subject to this Part the Board may—

- (a) borrow money from the Treasurer;
- (b) borrow money from the Queensland Government Development Authority;
- (c) borrow or raise money by way of sale of—
  - (i) debentures;
  - (ii) bonds;
  - (iii) inscribed stock; or
  - (iv) other securities approved by the Treasurer;
- (d) enter into such other financial arrangements as the Treasurer approves upon such terms and conditions as he thinks fit,

and may enter into financial arrangements partly in one and partly in another or other of the ways specified in this subsection.

(2) Financial arrangements entered into in accordance with subsection (1) may be made—

- (a) with the Treasurer;
- (b) with the Queensland Government Development Authority;
- (c) with other persons.

(3) Before entering into negotiations for financial arrangements the Board shall obtain the sanction of the Treasurer and for that purpose shall furnish to the Treasurer such information as he requires.

(4) The Board shall not enter into financial arrangements without the approval of the Governor in Council first had and obtained, on such terms and conditions, if any, as the Governor in Council thinks fit.

**57. Preliminary Resolution.** Before proceeding to enter into financial arrangements the Board shall at a special meeting called for the purpose, pass a resolution to that effect.

**58. Application of proceeds of arrangements.** Unless otherwise approved by the Treasurer, the proceeds of financial arrangements entered into by the Board shall be expended for the purpose for which it was authorized to enter into those financial arrangements and not otherwise.

**59. Debentures, bonds and stock.** (1) All debentures, bonds and inscribed stock of the Board in respect of a borrowing or raising of money by it other than—

- (a) in the case where the obligations of the Board thereunder are secured over property that is not income or revenue of the Board (whether or not they are also secured over such income or revenue); or
  - (b) in any other case declared by the Governor in Council to be one in which this section does not apply—
    - (i) shall be issued in such series, at such times and places in or outside Queensland and in such manner as the Board thinks fit;
    - (ii) shall bear interest at such rate and be redeemable at such date or dates and at such place or places in or outside Queensland as approved by the Governor in Council in relation to the raising of the moneys in question under section 56 (4);
    - (iii) may, in the case of debentures and bonds, with the consent of the holder thereof or, in the case of inscribed stock, with the consent of the registered owner, be paid off at any time previous to the due date thereof at not more than the amount of the principal remaining unpaid at the time or, with the consent of the Governor in Council, at a premium with interest thereon to the date of payment only.
- (2) Every debenture issued by the Board—
- (a) shall be sealed with the seal of the Board and signed by the Chairman and manager and when so sealed and signed shall be taken to have been duly issued;

(b) shall be numbered consecutively so that no live debentures in one and the same series shall at any time bear the same number;

(c) shall have set forth therein the places and times at which the principal and interest are payable.

(3) When a debenture issued by the Board is not transferable by delivery that fact shall be expressly stated on its face.

(4) In the case of a debenture issued by the Board with coupons the holder of such a coupon, whether separated from the debenture or not, shall be entitled to receive payment from the Board of the sum named therein upon presentation on or after the due date for payment thereof at the place where the sum is therein expressed to be made payable.

(5) In the case of a debenture issued by the Board without coupons the lender or, in the event of a transfer of the debenture, the transferee for the time being shall, subject to this subsection, be entitled to receive payments from the Board in respect of principal or interest or both in accordance with the terms and conditions of the debenture.

A transferee in respect of whom the Board has not been given notice as prescribed shall not be entitled to receive and the Board shall not be liable to make to the transferee any payment in respect of any debenture issued without coupons except under attachment by process of law and then only to the extent of moneys due and payable to the transferee under the debenture and unpaid by the Board to the lender or a prior transferee.

The entitlement of a transferee in respect of whom the Board has been given notice as prescribed to receive any payments in respect of a debenture issued without coupons shall be subject to any payment that, having become due and payable under the debenture before the Board was given such notice, was made by it to the lender or a prior transferee.

In this subsection "notice as prescribed" means a notice in writing signed by the transferor and transferee and verified to the satisfaction of the Board.

(6) In the case of an application to purchase debentures, bonds or inscribed stock, the Board may require the applicant to lodge with his application, as security, all or part of the purchase consideration.

Where an application is accepted, the debentures, bonds or inscribed stock issued pursuant thereto shall bear interest at the rate approved in accordance with this section on the amount lodged as security from the date of lodgment.

Where an application is not accepted, the Board shall forthwith refund any amount lodged as security, together with such amount of interest as the Treasurer considers appropriate, to the payer thereof or as he directs.

(7) In this section a reference to "debenture" shall be construed as a reference to a debenture issued in accordance with subsection (1).

**60. Payment of commission, fees.** (1) The Board may pay moneys by way of commission or fees in respect of the making of financial arrangements that the Governor in Council has authorized:

Provided that no such commission or fees shall be paid by the Board unless the Treasurer has approved of the payment thereof, which approval may be given by the Treasurer upon such terms and conditions as he thinks fit.

(2) Section 14 of the *Money Lenders Act* 1916–1979 shall not apply or extend to commission or fees that the Board is authorized by subsection (1) to pay, whether the payment thereof has been approved by the Treasurer and is agreed to by the Authority subject to the terms and conditions (if any) imposed by the Treasurer.

**61. Powers to execute charges etc. relating to financial arrangements.**

(1) For the purpose of performing financial arrangements to be entered into by or on behalf of the Board, the Board may, with the approval of the Governor in Council on the recommendation of the Treasurer—

- (i) execute such mortgages, bills of sale, charges, liens and other encumbrances over any of the property of the Board or provide such other security as the Board thinks fit;
- (ii) execute such other agreements including sale agreements, purchase agreements, leases and management and operating agreements as the Board thinks fit;
- (iii) charge any of its income and revenue from whatever source arising.

(2) All debentures, bonds, and inscribed stock issued by the Board shall be a charge upon its income and revenue from whatever sources arising unless otherwise expressly provided by the Governor in Council.

(3) Any mortgage, bill of sale, charge, lien, other encumbrance, security or agreement referred to in subsections (1) and (2) shall not operate to prevent the Board from dealing with its income and revenue or other property, as the case may be, in the ordinary course of performance of its powers, authorities, duties or functions under this or any other Act or in such manner as may be expressly permitted under the mortgage, bill of sale, charge, lien, other encumbrance, security or agreement.

**62. Priority of charges.** (1) All debentures, bonds and inscribed stock issued by the Board and to which section 59 applies shall rank *pari passu* one with the other unless otherwise expressly provided by the Governor in Council.

(2) Where the Board has created a charge over its income and revenue pursuant to section 61 (1) as security for an obligation or liability entered into by it (other than by debentures, bonds or inscribed stock referred to in subsection (1)) that charge shall, if so approved by the Governor in Council, rank *pari passu* one with the other with all other charges created by it over its income and revenue except to the extent that the first mentioned charge expressly provides that it shall rank with such other charges in some other manner, in which event the charges shall rank as so provided.

(3) Where the Board has executed a mortgage, bill of sale, charge, lien or other encumbrance over any of its property (other than its income and revenue) such mortgage, bill of sale, charge, lien and other encumbrance shall rank in relation to the property over which it is secured in accordance with its terms and as provided by law and, in a case to which the provisions of subsection (1) or (2) are relevant, notwithstanding those provisions.

**63. Investment with Board to be authorized investment.** Unless expressly forbidden by the instrument (if any) creating the trust, an investment by a trustee of trust funds in the provision of money or other financial accommodation to the Board pursuant to financial arrangements guaranteed by the Treasurer shall be and be deemed to be an authorized investment by the trustee within the meaning of the *Trusts Act* 1973–1981.

**64. Notice of trusts not to be received.** The Board and persons acting on its behalf—

- (a) shall not receive and shall be deemed to have not received notice of any trust (express, implied or constructive) in relation to any financial arrangements entered into by the Board; and
- (b) shall not be bound to see to the execution of any trust that may affect such financial arrangements.

**65. Protection of investors, etc.** (1) A person who enters into financial arrangements with the Board shall not be bound to enquire into the application of money, credit or other financial accommodation provided by him and shall not be held responsible in any way for the non-application or mis-application thereof.

(2) A person who enters into financial arrangements with the Board and receives in consideration therefor a security appearing on its face to be duly issued shall not be bound to enquire whether the issue of the security was in fact duly authorized and the issue of such security shall be conclusive evidence in favour of all persons that approval was duly given to the financial arrangements pursuant to which the security was issued and that the financial arrangements comply with this Act.

(3) The approval of the Governor in Council, whether by way of an Order in Council or otherwise, of the Board entering into financial arrangements shall be conclusive evidence in favour of all persons that approval was duly given to the financial arrangements and that the financial arrangements comply with this Act.

**66. Advance by way of overdraft.** (1) The Board may obtain temporary financial accommodation by way of an advance from any bank by way of overdraft.

(2) Notwithstanding the provisions of subsection (1), the Governor in Council may by Order in Council set conditions for the operation

of the overdraft of the Board. Such conditions may include, but are not limited to—

- (a) the maximum amount to which the Board may obtain such temporary finance and in that event the Board shall not suffer the amount of its overdraft to exceed the amount so fixed; and
- (b) the period over which moneys may remain outstanding and in that event the Board shall not suffer such period to be exceeded.

**67. Remedies.** (1) Subject to the provisions of section 70, if the Board fails to make a payment of principal or interest when it falls due to any person in respect of debentures, bonds or inscribed stock to which section 59 applies the right of that person to recover the amount of the payment in respect of which default has been made is dependent upon—

- (a) that person giving to the Board notice of the default; and
- (b) where the payment of such principal or interest is the subject of a guarantee or indemnity given by the Treasurer, if the default continues for the period of 14 days after the giving of the notice referred to in provision (a) that person giving to the Treasurer notice of the default.

(2) If the default continues for a period of 14 days after the giving of the notice referred to in provision (b) of subsection (1) or, in a case where that provision is irrelevant, after the giving of the notice referred to in provision (a) of that subsection the person to whom should have been made the payment in respect of which default has been made—

- (a) may apply to and procure all necessary orders and directions from the Supreme Court for the appointment of a receiver and the Supreme Court shall have jurisdiction to make all such orders for the appointment of a receiver, and for his removal and the appointment of another in his place, as may be necessary to make such orders and give such directions as the court considers necessary; or
- (b) may recover the amount in respect of which default has been made as a debt due and owing to him by the Board by action against the Board in any court of competent jurisdiction.

(3) A receiver appointed under subsection (2) shall be deemed to be an officer of the court and shall act under its direction and may be appointed in respect of the general revenue of the Board or in respect of specific revenue.

**68. Remuneration of receiver.** A receiver appointed pursuant to section 67 shall be entitled to such remuneration by way of commission, fees or otherwise as the Supreme Court orders.

Such remuneration shall be payable out of the revenue of the Board.

**69. Powers and duties of receiver.** (1) A receiver appointed pursuant to section 67 may collect all the revenue in respect of which he has been

appointed receiver payable to the Board and for the purpose of enforcing his right thereto he shall be deemed to be the Board and may exercise all of its powers to that end.

(2) A receiver shall pay and apply all moneys received by him in the course of his receivership as follows—

- (a) firstly, in payment of the costs, charges and expenses of collection and of his remuneration;
- (b) secondly, in payment, subject to any order of the Supreme Court, to the person with whom the Board has entered into financial arrangements and to other persons generally, in such order of priority as the Supreme Court orders; and
- (c) thirdly, in payment of any residue of such moneys to the Board.

**70. Alternative provision for remedies.** (1) Financial arrangements entered into by the Board may provide for remedies to apply in the event of default by any party to the arrangements in respect of any of the terms thereof.

Such provision may include provision for the appointment of a receiver in respect of any of the parties to the arrangements and for his duties, powers and remuneration.

(2) Where in any financial arrangements there is made provision such as is referred to in subsection (1) that provision shall be given effect in lieu of the provisions of sections 67, 68 and 69.

(3) Where a receiver is appointed pursuant to provision contained in financial arrangements he shall be deemed to be the Board and may exercise all the powers of the Board pursuant to such arrangements.

**71. Regulations about financial arrangements.** (1) The Governor in Council may make regulations for and with respect to—

- (a) any matter which relates to or is a consequence of the Board entering into financial arrangements, the repayment of moneys raised pursuant to such arrangements and the discharge of obligations incurred by the provision of financial accommodation pursuant to such arrangements; and
- (b) any matter which is necessary or convenient to enable the Board to carry out or give effect to any of the provisions of this Act or any financial arrangement,

or either of these matters.

(2) Without limiting the generality of the power conferred by subsection (1), the regulations—

- (a) may prescribe the form of and the manner of issuing securities of every description by the Board;
- (b) may provide for the keeping and inspection of and the taking of copies of or extracts from the register of debentures, bonds or inscribed stock of the Board;



- (c) may provide for lost or defaced debentures, coupons, bonds, stock certificates and other securities issued by the Board and the destruction of discharged debentures, coupons, bonds, stock certificates and other securities;
  - (d) may prescribe in relation to entering into financial arrangements outside Queensland by the Board;
  - (e) may provide for sinking funds and other methods for the repayment of moneys raised by or other financial arrangements entered into by the Board and for the appointment of trustees of a debt redemption fund with respect thereto and for the powers, functions and duties of such trustees and may regulate all matters connected with such matters so provided for.
- (3) The regulations shall not be inconsistent with this Part.

**72. Illegal financial arrangements.** (1) A person who enters into financial arrangements with the Board otherwise than in accordance with this Part shall have no remedy or right to recover money from the Board in respect of that transaction.

(2) The provisions of this section shall be so construed as not to prejudice the operation of the provisions of section 65.

*Division 3—Investment of Surplus Board Funds*

**73. Investment Powers.** (1) Subject to this Part the Board may invest moneys held by it which are not immediately required for the functions of the Board—

- (a) in securities issued or guaranteed by the Government of the Commonwealth or of a State or Territory of the Commonwealth;
- (b) with or on deposit with a bank or in securities issued, guaranteed or accepted by a bank;
- (c) with any authorized dealer in the short term money market with established lines of credit with the Reserve Bank of Australia as lender of last resort;
- (d) in such other securities, investments or other financial arrangements as may be recommended by the Treasurer and approved by the Governor in Council,

provided that no such investment shall have a term in excess of 12 months except with the Treasurer's approval first had and obtained.

(2) Every security, safe custody acknowledgement or other document evidencing title issued in respect of an investment shall be held either by the Board, by the Treasurer on behalf of the Board or in such other manner as is approved by the Treasurer.

(3) Any approval in accordance with subsection (1) or (2) may be granted—

- (a) in respect of a specific security, investment or other financial arrangement, all securities, investments or other financial arrangements of a specific kind or class or all securities, investments and other financial arrangements;
- (b) for a specific period or without limit of time.

**74. Regulations.** (1) The Governor in Council may make regulations relating to the investment of moneys held by the Board which are not immediately required for the functions of the Board.

(2) The regulations shall not be inconsistent with this Part.

*Division 4—Funds of Board*

**75. Funds to be maintained.** (1) The Board shall establish and maintain in accordance with this Act the following funds:—

- (a) an Operating Fund;
- (b) a Reserve Fund;
- (c) a Capital Works Fund;
- (d) a Trust Fund; and
- (e) any other Fund that may be prescribed from time to time.

Except as may be prescribed the Funds shall be separate and distinct and a separate bank account shall be kept for each Fund.

(2) Upon the establishment of the Funds specified in subsection (1), or any of them, the balance of a Fund maintained by the Board immediately before the day of commencement of this Act and referred to in the first column of the following table shall be transferred to the Fund set opposite that reference in the second column of the Table.

TABLE	
General Fund	Operating Fund
Loan Fund	Capital Works Fund
Reserve Fund	Reserve Fund
Trust Fund	Trust Fund

**76. Operating Fund.** (1) The Board shall pay or cause to be paid into the Operating Fund—

- (a) all moneys payable to it on account of charges for water supplied or allocated;
- (b) all penalties, fees and charges payable to it under this Act;
- (c) all moneys paid to it by way of grant or interest and redemption subsidy or otherwise other than such moneys as are, by this Act, required to be paid to any other fund.

(2) Moneys from time to time forming the Operating Fund shall be applied to—

- (a) expenditure necessarily incurred by the Board in the discharge of its functions, the exercise of its powers and the performance of its duties other than expenditure that is, by this Act, required to be met from some other fund of the Board;
- (b) payment in accordance with this Act of moneys from that fund to any other fund of the Board.

**77. Reserve Fund.** (1) The Board shall pay or cause to be paid into the Reserve Fund—

- (a) the whole or part of any surplus in the Operating Fund that the Board resolves shall be transferred to the Reserve Fund;
- (b) moneys set aside from the Operating Fund to meet any future liability of the Board, whether certain or contingent, and, if the Board so resolves, interest earned on such moneys.

(2) Moneys from time to time forming the Reserve Fund—

- (a) if such moneys form part of a specific reserve, shall be applied to the liability or purpose of the Board for which the specific reserve was established;
- (b) if such moneys do not form part of a specific reserve, may be applied—
  - (i) to the replacement of assets of the Board or the acquisition of further assets for the purposes of the Board;
  - (ii) to a liability or purpose of the Board for which a reserve might properly be established.

(3) The Board may, by its resolution and subject to regulations—

- (a) discontinue a reserve established by it; or
- (b) continue a reserve established by it for a purpose other than the purpose for which the reserve was established.

Where the Board exercises the power specified in paragraph (b), the reserve in question shall be taken to have been established for the purpose last resolved by the Board and may be applied accordingly.

Where a reserve is discontinued or is applied to the purpose for which it was established and there is a residue of moneys in that reserve the moneys then forming part of the reserve shall be transferred to the credit of the Operating Fund.

**78. Capital Works Fund.** (1) The Board shall pay or cause to be paid into the Capital Works Fund all moneys—

- (a) received by it by way of loan raisings under this Act or by way of grant or subsidy not being interest and redemption subsidy from any source;
- (b) duly provided from any other fund of the Board; or

(c) received by it by way of contribution from any source whether on loan or otherwise, for the purpose of works of a capital nature.

(2) Moneys from time to time forming the Capital Works Fund shall be applied to expenditure necessarily incurred by the Board in connexion with the investigation, planning and design, the purchase, construction and protection of works of the Board, and with the acquisition of lands by the Board, that are or are to be utilized by it in the discharge of its functions under this Act.

(3) Any balance, or any part thereof, remaining in the Capital Works Fund at its closure shall be paid into and applied for the purpose of such other fund or shall be dealt with in such other manner as may be approved in writing by the Treasurer.

**79. Trust Fund.** (1) The Board shall pay or cause to be paid into the Trust Fund all moneys received or held by it by way of deposit or in the trust for any person and all moneys held by it that are unclaimed moneys.

(2) Moneys from time to time forming the Trust Fund shall be applied—

- (a) in the case of moneys received by way of deposit, according to the terms on which the deposit is held;
- (b) in the case of moneys held in trust for any person to the payment to or for the benefit of that person;
- (c) in the case of unclaimed moneys, in disposing of those moneys according to law.

*Division 5—Accounts and Audit*

**80. Meaning of terms.** In this Division, save where a contrary intention appears—

“accounts” means records, howsoever compiled, recorded or stored, whether in written or printed form or on microfilm or by electronic process or otherwise, of transactions in respect of moneys or property expressed in money or other units of measurement and includes books, documents, writings, money forms, abstracts, vouchers and other records of any kind from which accounts have been compiled and, in addition, information and records of any kind to which the Auditor-General, in his opinion, should have recourse in the conduct of an audit;

“year” means the period commencing on 1 July in any calendar year and concluding on 30 June in the next succeeding calendar year.

**81. Budget.** (1) Before 31 August in each year or before such later date as the Minister may on the application of the Board permit, the Board shall frame and adopt a budget for the receipts and disbursements of the Board for each year, in the form and manner prescribed, in respect of each fund maintained by the Board.

(2) If at the end of any year for which a budget is framed there is a surplus or deficit remaining after the transfer of moneys to the Reserve Fund has been authorized in accordance with subsection 77 (1) such surplus or deficit shall be carried forward and taken into account in framing the budget for the next following year.

(3) Every such budget shall be subject to the approval of the Minister and, until so approved shall be of no force or effect save that any disbursement of the Board necessarily made in any year prior to the adoption of the budget framed for that year is hereby authorized and shall be shown as a disbursement in the budget framed for that year.

(4) At the close of each year all authorizations of expenditure and votes of expenditure for that year shall lapse. A vote so lapsing may be re-voted.

(5) If the Board makes a disbursement in any year from any of its funds that has not been provided for in the approved budget relating to that fund for that year, then, except where the disbursement has been made in emergent or extraordinary circumstances, the members of the Board who knowingly voted for such expenditure shall be jointly and severally liable to repay to the Board the amount of the disbursement and such amount may be recovered by action in a court of competent jurisdiction as a debt due and owing by all and each of such members to the Board.

(6) Copies of every budget adopted by the Board and approved by the Minister shall be available for purchase by any person at the public office of the Board at a fee determined by resolution of the Board from time to time.

(7) Until its first budget is framed under this Act by the Board and is approved by the Minister, the Board may continue to receive and disburse moneys as provided for by the budget of the Board last framed by the Board before the commencement of this Act and that budget shall continue to be of force and effect and shall be deemed to be for the period aforesaid the duly approved budget of the Board under this Act.

Such budget may be varied (should the case require it) by the Minister on the recommendation of the Board.

**82. Accounts.** The Board shall cause proper accounts to be established and faithfully and properly kept in accordance with this Act.

**83. Statements of account.** (1) The manager shall, at the first ordinary meeting of the Board held after the close of the accounting period adopted by the Board or, in the absence of such adoption, after

the close of each month, submit to the Board statements of the accounts in relation to the budget for the period of the year to the termination of such accounting period or, as the case may be, month last concluded.

(2) The statements of account shall show both estimated receipts and disbursements and actual receipts and disbursements with such explanations as will give a true indication of the progressive state of the votes provided in the budget and, in addition, the statements submitted to the first meeting of the Board held after the last day of December and March shall include an estimate of the anticipated position at the end of the year.

**84. Annual statements of account.** (1) As soon as practicable after the close of each year the Board shall balance its accounts and prepare annual statements of account in the form approved by the Minister on the recommendation of the Auditor-General.

(2) The Chairman and the Manager of the Board shall certify as to whether or not in their opinion the annual statements of account fairly set out the financial transactions of the Board for the period to which they relate and show a true and fair view of the state of affairs at the close of that period on a basis consistent with that applied in the year last preceding, and shall thereupon seal such statements with the seal of the Board and transmit them to the Auditor-General.

(3) Until the annual statements of account have been audited and duly certified pursuant to section 85 no such statements shall be sold or made available to any person other than the Auditor-General or a person acting in aid of him, the Minister or a person acting in aid of him or a member or officer of the Board.

(4) When the annual statements of account have been audited as specified in subsection (3) the Board shall cause to be published in a newspaper circulating within its operational area a notice to the effect that such statements are open to inspection at the public office of the Board and that a copy thereof may be purchased by payment to the Board of an amount specified, which may be fixed from time to time by resolution of the Board.

All copies of the statements of account made available for inspection or purchase shall be in the form certified by the Auditor-General in accordance with section 85 and have appended thereto the Auditor-General's certificate.

**85. Audit of Accounts.** (1) The accounts of the Board, including the accounts of a superannuation scheme or schemes instituted under section 115 shall be audited by the Auditor-General who shall have with respect to such audit and accounts all the powers and authorities conferred on him by the *Financial Administration and Audit Act 1977-1981*.

The fee payable by the Board in respect of the Audit shall be fixed by the Auditor-General.

(2) The Auditor-General shall prepare a report on the audit performed by him and may make in that report any observation or suggestion with respect to any matter or thing arising out of the audit that, in his opinion, requires further attention or further consideration.

(3) The Auditor-General shall forward—

(a) such observations and suggestions made pursuant to this section as he thinks fit to the Chairman of the Board;

(b) such observations and suggestions made pursuant to this section that in his opinion are of major significance to the Treasurer and to the Minister.

(4) On completion of the audit of the annual statements of account compiled in accordance with this Act the Auditor-General shall certify thereon whether or not he has obtained all the information and explanations required by him and whether or not the statements—

(a) are in the form required by this Act;

(b) are in agreement with the accounts; and

(c) have, in his opinion, been properly drawn up so as to present a true and fair view of the transactions for the year in question and the financial position at the end of that year on a basis consistent with that applied in respect of the year last preceding,

and, after such certification, shall deliver such statements to the Board.

(5) The report of the Auditor-General prepared pursuant to subsection (2) together with the annual statements of account bearing the certificate of the Auditor-General pursuant to subsection 4 shall be submitted to the Board at the first ordinary meeting held after the report becomes available to the Chairman.

**86. Financial administration.** The Board shall—

(a) ensure that the operations of the Board are carried out efficiently, effectively and economically;

(b) cause funds and accounts to be established and faithfully and properly kept in compliance in all aspects with the prescribed requirements;

(c) subject to the prescribed requirements, keep all moneys, the property of or under the control of the Board, at a bank;

(d) ensure that—

(i) procedures within the Board are such as will at all times afford proper control over expenditure;

(ii) liability for expenditure is incurred for lawful purposes and expenditure is made in compliance with the prescribed requirements;

(iii) as far as is possible, having regard to the limits of its powers and control, reasonable value is obtained for moneys expended;

- (iv) procedures and internal control of the Board afford at all times adequate safeguards with respect to—
  - (A) the correctness, regularity and propriety of payments made;
  - (B) the assessment, levy and collection of revenue and other amounts receivable; the receiving, safekeeping, banking of and accounting for moneys due to or under the control of the Board; and the purchase, receipt, issue, sale, custody, control, management and disposal of and accounting for property of or under the control of the Board;
  - (C) the prevention of fraud or mistake;
- (e) where services are rendered or goods supplied to any person by the Board, ascertain by regular examination whether fees and charges are being properly assessed and levied and whether such fees and charges are adequate having regard to the cost of such goods and services and other relevant matters;
- (f) take such action as will ensure the preparation, certification and rendering in accordance with the prescribed requirements of the annual statements of account of the Board as are required by the prescribed requirements to be prepared, certified and rendered;
- (g) prepare and issue and amend, alter or vary from time to time as occasion demands an accounting manual for use by the Board;
- (h) perform all such other functions and duties with respect to financial administration as are prescribed.

*Division 6—Special Financial Arrangements*

**87. Board to recover charges and fees.** The Board may, in the exercise and performance of the functions authorised by this Act, make, levy demand and recover charges and fees relating to those functions.

PART VII—TAKING AND HOLDING LAND BY THE BOARD

*Division 1—Acquisition of Land*

**88. Freehold land.** For the purpose of taking land granted in fee simple the Board is a constructing authority within the meaning of the *Acquisition of Land Act 1967–1977*.

**89. Other land.** (1) As well as land granted in fee simple the Board as a constructing authority under the *Acquisition of Land Act 1967–1977* may take, for the purpose of discharging its functions under this Act, land that is held from the Crown for an estate or interest less than fee simple.

(2) Land taken pursuant to subsection (1), if it is to vest in the Board, shall be vested in the Board for an estate in fee simple.



(3) The Governor in Council is hereby authorized to grant in fee simple and vest in the Board land taken pursuant to subsection (1) subject to such reservations and conditions as are authorized or required by the *Land Act 1962-1983*.

**90. Application of Act of 1967 No. 48.** The *Acquisition of Land Act 1967-1977* shall apply in respect of every taking of land pursuant to section 89 and, if the case required it, in respect of the subsequent disposal of land so taken and shall be read with and subject to all such modifications and adaptations as are necessary to give operation and effect to section 89, including as respects the land in question, the reading of any reference therein to the Registrar of Titles as a reference to the person or authority charged with registering instruments evidencing title to an estate or interest in that land held from the Crown.

**91. Taking additional land upon severance.** (1) If the Board proposes to acquire (by agreement or by taking) any land and the acquisition of such land will sever it from other land of the owner that is used together with the land which it is proposed to acquire the Board may, with the approval of the Minister and the consent of the owner first had and obtained, acquire (by agreement or by taking) the whole or part of that other land.

(2) The acquisition of additional land pursuant to subsection (1) shall be deemed to be for a purpose incidental to the purpose for which the land first-mentioned in that subsection is proposed to be acquired.

(3) The Board may sell or otherwise deal with additional land acquired by it pursuant to subsection (1) in such manner as it thinks fit without restriction prescribed by any other Act.

**92. Acquisition of easements etc.** (1) The provisions of this Part relating to acquisition of land shall apply in respect of the acquisition (by agreement or by taking) of an easement or other right in land.

(2) (a) An easement may be created in favour of the Board that is not acquired for the benefit of other land as a dominant tenement.

(b) An easement that is acquired by the Board, pursuant to the provisions of this Act, otherwise than by creation in favour of the Board, shall be taken to be and always to have been validly created notwithstanding that the easement was not acquired, whether by the Board, or by any previous grantee who has subsequently transferred an easement to the Board, for the benefit of other land as a dominant tenement.

(c) The Registrar of Titles is authorized to accept and register an easement of either or both of the classes of easements referred to in paragraph (a) and paragraph (b) lodged with him and drawn in a form acceptable to him.

(3) (a) An easement of either of the classes of easements referred to in subsections (2) (a) and (2) (b) created in favour of or acquired by the Board pursuant to the provisions of the repealed Act or the repealed Order in Council, that is valid in all other respects, shall not be held

to be invalid solely by reason of the fact that the easement was not acquired, whether by the Board or by any previous grantee who has subsequently transferred an easement to the Board, for the benefit of other land as a dominant tenement.

(b) The Registrar of Titles is authorized to accept and register an easement of either or both of the classes referred to in paragraph (a) lodged with him in a form acceptable to him.

#### *Division 2—Rateability of Land*

**93. Rateability of land vested in Board.** Where an estate or interest in land vests in the Board—

- (a) the Board shall not in any case be taken to be the owner for the purpose of making and levying a rate in respect of that land;
- (b) if and only if that land is in the occupation of a person other than the Board shall it be rateable land within the meaning of the *Local Government Act 1936–1984*, in which case the person in occupation shall be taken to be the owner for the purpose of making and levying the rate.

### PART VIII—CONDUCT OF THE BOARD'S AFFAIRS

#### *Division 1—Proceedings and Business of Board*

**94. Meetings of Board.** (1) The first meeting of the Board shall be held at a time and place appointed by the Minister and thereafter meetings shall be held at the times and places nominated when such meetings are called.

(2) Meetings of the Board other than the first such meeting shall be called by the Chairman or, in his absence, the Deputy-Chairman or, in the absence of both of them, any two members of the Board.

**95. Presiding at meetings.** (1) The Chairman shall preside at each meeting of the Board at which he is present and the Deputy-Chairman, if he is present, shall preside at any meeting of the Board at which the Chairman is not present or if at any time there is no Chairman.

(2) If both the Chairman and Deputy-Chairman are absent from any meeting of the Board the members who are present, if they constitute a quorum, may appoint one of their number to act as Chairman of the meeting and such appointee may preside at the meeting and exercise the powers of the Chairman.

**96. Quorum at meetings.** A quorum of the Board shall consist of a majority of the number of members for the time being holding office.

**97. Notice of meetings.** (1) A notice of a meeting or an adjourned meeting of the Board (other than of a meeting adjourned to a later hour of the day on which such meeting was held or appointed to be held or to

the first day or second day following that day) shall be in writing and shall be delivered or sent by post otherwise to each member at his usual place of business or of residence last known to the Manager three days at least prior to the meeting.

(2) If in the opinion of the Chairman an emergency exists he may call a meeting of the Board and the same may be validly held notwithstanding that subsection (1) is not or cannot be complied with.

**98. Adjournment of meetings.** The members present at a meeting of the Board may adjourn the meeting from time to time.

If a quorum is not present at a meeting within thirty minutes after the time appointed for the meeting to commence the member or members present or the majority of them if more than two are present, or the Chairman if the members present are equally divided on the issue, may adjourn such meeting to any time not later than fourteen days from the date of such adjournment.

No provision of the preceding paragraph shall be construed to prevent the adjournment of a meeting to a later hour of the same day on which such meeting was appointed to be held.

**99. Conduct of Board's affairs.** (1) The Board shall exercise or perform a power, function or duty by majority vote of the members present and voting at a duly convened meeting of the Board.

A member who, being present at a meeting and entitled to vote, abstains from voting shall be deemed to have voted in the negative.

The person who is duly presiding at a meeting, if he is entitled to vote, shall have a deliberative vote and, in the event of any equality of votes, a casting vote.

(2) The Board shall cause to be recorded in a book provided for the purpose (in this Act called the minute book) and kept by the manager under the superintendence of the Chairman—

(a) particulars of all proceedings of the Board; and

(b) the names of the members present at each meeting of the Board.

The minutes of each meeting shall be signed after confirmation of the Board by the Chairman at the meeting next succeeding the meeting at which such proceedings have taken place.

(3) Every entry in a book kept by the manager purporting to relate to the proceedings of the Board and to be signed by the Chairman and a certified copy of an extract from such an entry sealed with the seal of the Board and signed by the Chairman and manager shall upon its production in any proceeding be received as evidence of the proceedings appearing by such entry to have been taken without proof of the due convening or holding of the meeting to which the entry relates, or of the membership of the Board of the persons attending the meeting, or of the signatures of the Chairman or manager.

- (4) 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 or refer to a committee any matter for the purpose of receiving its advice or recommendations thereon;
  - (c) fix the quorum of a committee.

Every committee may, from time to time, appoint one of its members to be chairman and shall report to the Board.

A committee may meet from time to time and may adjourn from place to place as it thinks proper, but no business shall be transacted at any meeting of the committee unless the quorum of members, if any, fixed by the Board or, if no quorum is fixed, two members at least, are present.

At all meetings of a committee, if its chairman is not present, one of its members present shall be appointed chairman of the committee during the absence of its chairman. All questions at any meeting shall be determined by a majority of the votes of the members present, including the chairman of the meeting who, if the numbers are equally divided, shall have a second or casting vote.

**100. Validity of proceedings.** An act, proceeding or agreement of the Board shall not be invalidated or in any way prejudiced by reason only of the fact that at the time such act was done, proceeding taken or agreement made there were vacancies in the membership of the Board not exceeding one-half of the total number of members for the time being required to constitute the Board or that all the members for the time being holding office were not present at the meeting at which such act or proceeding or the making of such agreement was done or authorized or that there was a defect in the membership or appointment of any one or more of the members who joined in doing such act or taking such proceeding or making such agreement or in authorizing such act, proceeding or agreement or of any combination of such facts.

**101. Disability on participation in business of Board.** (1) If a member of the Board has any pecuniary interest, direct or indirect, in an agreement or proposed agreement or other matter and is present at a meeting of the Board at which the agreement or proposed agreement or other matter is to be considered he shall at the meeting and before the agreement, proposed agreement or matter is considered, disclose the fact of his interest, and shall not participate in the consideration of or vote on any question with respect to the agreement, proposed agreement or other matter.

This subsection does not apply to an interest which a member may have in common with the public or as a member of the Local Authority that nominated him for appointment to the Board or as a nominee of a Government department represented on the Board.

(2) For the purposes of this section a person shall be taken to have an indirect pecuniary interest in an agreement or a proposed agreement or other matter if—

- (a) he or a nominee of his is a member of a body corporate with which the agreement is made or proposed to be made or which has a direct pecuniary interest in the other matter under consideration; or
- (b) he is a partner or an employee of a person with whom the agreement is made or proposed to be made or who has a direct pecuniary interest in the other matter under consideration.

In the case of spouses living together the interest of one spouse shall, if it is known to the other, be deemed for the purposes of this subsection to be also the interest of that other spouse.

For the purposes of this section a person shall not be taken to have a pecuniary interest in an agreement or a proposed agreement or other matter by reason only of his membership of or employment under a public body concerned with the agreement, proposed agreement or other matter.

(3) The manager shall record in a book to be kept for the purpose particulars of every disclosure of interest made at a meeting of the Board and referred to in subsection (1) and the book shall be open at all reasonable times to inspection by any member.

(4) The Minister, subject to such conditions as he thinks fit to impose, may remove from one or more members of the Board a disability imposed by this section whenever the number of members so disabled at any time would in his opinion be such as to impede the conduct of business of the Board, or if, in any other case, it appears to the Minister desirable that the disability should be removed.

(5) The Board may by its resolution exclude any member from a meeting whilst any agreement, proposed agreement or other matter in which he has an interest such as is referred to in subsection (1) is under consideration.

(6) A member of the Board who has a pecuniary interest in an agreement, proposed agreement or other matter as prescribed by this section and who fails to comply with subsection (1) forfeits his office as a member unless he proves that he did not know of his pecuniary interest at the time that the agreement, proposed agreement or other matter was the subject for consideration at the meeting in question of the Board.

*Division 2—Remuneration Fees and Expenses*

**102. Chairman's remuneration.** The person who holds the office of Chairman unless he be a Public Servant may be paid such remuneration by way of an annual allowance as the Governor in Council on the recommendation of the Minister may determine.

**103. Remuneration of other Board members.** Each member of the Board shall be paid for attending meetings of the Board and meetings of committees appointed by the Board and performing at the direction of the Board inspections or other duties as a member of the Board, such fees and allowances as the Governor in Council may from time to time

determine save that a member of the Board who is an officer of the Public Service of Queensland shall not receive fees or allowances for attendance at a meeting of the Board during his ordinary hours of duty.

**104. Expenses.** (1) Every member of the Board shall be paid expenses on account of his attending meetings of the Board and meetings of committees appointed by the Board and, subject to his obtaining the Board's approval before entering upon such performance, on account of the performance by him of any duty as a member of the Board.

(2) The expenses referred to in subsection (1) shall be in such amount or calculated at such rate or on such basis as the Governor in Council from time to time determines.

**105. Other fees etc. not payable.** A member of the Board is not entitled to remuneration, fees or expenses as a member save as are provided for by this Division.

**106. Insurance of members.** (1) In this section the terms "insurer" and "insurance" have the meanings ascribed to those terms in the *Insurance Act 1960-1982*.

(2) The Board may from time to time—

- (a) enter into contracts of insurance in respect of its members; or
- (b) otherwise provide for the insurance of its members by means of contracts of insurance,

with an insurer holding a current licence under the *Insurance Act 1960-1982* to carry on general insurance business in Queensland so as to provide for the insurance of members of the Board against personal injury, whether fatal or not, arising out of or in the course of the carrying out by such members of any business of the Board or the performance by such members of any function in their capacity as members of the Board.

(3) In respect of any contract of insurance referred to in subsection (2), the Board shall be deemed to have an insurable interest.

(4) Any sum appropriated by the Board for the insurance of any person insured under the provisions of this section, or any sum received by the Board under any contract of insurance referred to in subsection (2), after deducting therefrom any expenses incurred in the recovery thereof, shall be paid by it to, or to the personal representatives of, the person in respect of whom the sum was appropriated or received.

(5) Every contract of insurance referred to in subsection (2) shall, as far as practicable, provide at least the same benefits for persons insured thereunder as are provided in the case of workers under the *Workers' Compensation Act 1916-1983*.

(6) All expenditure by the Board in respect of any contract of insurance under this section shall be deemed to be expenditure in respect of the management of the Board.

(7) Notwithstanding anything contained in this Act, a person shall not by reason of his being insured under this section be disqualified

from taking part, at any meeting of the Board, in the discussion of or voting on any matter relating to the insurance of members of the Board under this section, not being a claim made by him or on his behalf.

(8) No matter or thing done and no contract entered into by the Board, and no matter or thing done by any member, officer or any person acting under the direction of the Board shall, if the matter or thing was done or the contract was entered into bona fide and without negligence for the purpose of executing any power, function or duty of the Board under this Act, subject any member of the Board or any such officer or person to any personal liability in respect thereof and any expense incurred by any member, officer, or any person acting as last aforesaid shall be deemed to be an expense of the Board.

*Division 3—Employees of Board*

**107. Employment of staff.** (1) The Board shall appoint a manager and such number of employees as it considers sufficient to enable it to properly perform its functions under this Act.

(2) Subject to any applicable industrial award or agreement, an employee of the Board shall be paid a salary or wage at such rate and shall be employed on such terms and conditions as the Board determines.

**108. Staff and Employees of Board.** (1) Upon the day of commencement of this Act all persons then employed by the Board shall continue their employment with the Board preserved, continued in existence and constituted hereunder on terms and conditions of employment at least equal to the terms and conditions previously enjoyed by those persons as employees of the Board without loss of accrued leave rights or superannuation rights.

(2) All persons employed by the Board pursuant to subsection (1) shall be subject to the by-laws and general governance of the Board in relation to their employment.

**109. Staff of works controlled by Board.** (1) Where the Board assumes control of any headworks, treatment works or trunk mains of a Local Authority it shall, save in a case where it covenants with the Local Authority that the Local Authority shall continue to operate the headworks, treatment works or trunk mains on its behalf and where that covenant continues to be performed, offer to all persons ordinarily employed by the Local Authority on a full-time basis in and about the management, operation and maintenance of such headworks, treatment works or trunk mains to continue their employment thereon upon such duties as are determined by or on behalf of the Board but otherwise on terms and conditions of employment at least equal to the terms and conditions enjoyed by those persons as employees of the Local Authority.

(2) All persons who accept the Board's offer made pursuant to subsection (1) within two months after the making of the offer shall be employed by the Board and thereafter shall be subject to the by-laws and general governance of the Board in relation to their employment.

**110. Employees of Local Authority prejudiced by Board's control of works.** (1) If by reason of the Board's assumption of control of any headworks, treatment works or trunk mains of a Local Authority persons then employed by the Local Authority other than those taken into the Board's employment pursuant to section 109 cannot, in the opinion of the Local Authority, be gainfully employed by it the Board and the Local Authority shall agree with respect to the employment of such persons on terms and conditions of employment at least equal to the terms and conditions of employment enjoyed by them as employees of the Local Authority.

(2) Where pursuant to an agreement made under subsection (1) an offer of employment by the Board is made to any person who accepts the offer within two months after it is made to him such person shall be employed by the Board upon such duties as are determined by or on behalf of the Board and thereafter shall be subject to the by-laws and general governance of the Board in relation to his employment.

**111. Employment details to be furnished to Board.** During negotiations between the Board and a Local Authority with a view to the assumption of control by the Board of the Local Authority's headworks, treatment works or trunk mains the Local Authority shall cause to be collated and furnished to the Board full and accurate information as to its employees ordinarily employed on a full-time basis in and about the management, operation and maintenance of the headworks, treatment works or trunk mains and as to its employees likely to be prejudiced by reason of the assumption of control together with full and accurate details as to the terms and conditions of their employment by the Local Authority.

**112. Retention of accrued leave rights by Board's employees.** A person who immediately prior to his becoming an employee of the Board was an officer or an employee of a Local Authority taken into the Board's employment pursuant to sections 109 and 110 shall, upon and by virtue of his becoming an employee of the Board cease to be such an officer or employee of the Local Authority but nevertheless for as long as he continues in the Board's employment in a permanent capacity shall retain and may claim against the Board in respect of all entitlements as respects leave that have accrued or are accruing to him as an officer or an employee of the Local Authority at the time when he becomes an employee of the Board and for this purpose his service as an employee of the Board and his service in employment terminated by his becoming an employee of the Board shall be deemed to be continuous service as an employee of the Board.

**113. Retention of superannuation rights by Board's employees.** (1) A person who becomes pursuant to section 109 and 110 an employee of the Board in a permanent capacity at any time and immediately prior to his becoming such an employee is a contributor to a superannuation fund, superannuation scheme or provident fund as an employee of a Local Authority, shall, for as long as he remains such a contributor—

(a) retain all entitlements which at the time when he becomes an employee of the Board have accrued or are accruing to



him as a contributor to the superannuation fund, superannuation scheme or provident fund, as the case may be; and

- (b) continue to contribute to the fund or scheme to which he was contributing at the time when he became an employee of the Board and shall be entitled to receive therefrom in respect of himself, his widow and any child of his as if he had remained an employee of the Local Authority by which he was employed immediately prior to his becoming an employee of the Board, and if the case requires it as if his service as an employee of the Local Authority and his service as an employee of the Board were continuous service as an employee of the Local Authority.

(2) To facilitate the payment of contributions to any superannuation fund, superannuation scheme or provident fund by employees referred to in subsection (1) the Board is hereby authorized to deduct from the weekly, fortnightly or other periodic salary or wage of such an employee an amount sufficient to meet his contribution to that fund, scheme or provident fund and to remit such amount to the proper person authorized to receive contributions on behalf of that fund, scheme or provident fund.

**114. Board to contribute as employer.** (1) In respect of an employee of the Board who pursuant to section 113 contributes to a superannuation fund, superannuation scheme or provident fund as set out therein the Board shall pay to that scheme or fund such sums as would have been payable by the Local Authority concerned by way of contribution to the scheme or fund had the contributor been an employee of the Local Authority and had been paid salary or wages at the rate paid to him at the material time by the Board.

(2) Moneys payable by the Board under this section to any superannuation fund, superannuation scheme or provident fund and unpaid may be recovered by action in a court of competent jurisdiction by the trustees or managers of the scheme or fund in question respectively as a debt due to, as the case may be, those trustees or managers.

**115. Superannuation scheme or arrangement.** (1) The Board is authorized and is deemed always to have been authorized to establish or participate in a scheme or arrangement that secures superannuation or provident benefits for any employee or employees of the Board.

(2) On and after the passing of this Act, it shall not be competent to the Board—

- (a) to establish or to commence to participate in a scheme or arrangement such as is referred to in subsection (1);
- (b) to amend a scheme or arrangement such as is referred to in subsection (1);
- (c) to continue to participate in a scheme or arrangement such as is referred to in subsection (1) that is amended subsequently to the passing of this Act and subsequently to the Board's commencing to participate therein,

unless the approval of the Governor in Council has first been obtained to the establishment, participation, amendment or, as the case may be, continued participation.

(3) A reference to a scheme or arrangement in subsection (2) (b) or (2) (c) includes a reference to any such scheme or arrangement which the Board has established before or in which the Board was participating immediately before the passing of this Act.

(4) An employee of the Board who continues to be a contributor to a superannuation or provident scheme such as is referred to in section 113 shall not be required to become a contributor to a scheme or arrangement such as is referred to in subsection (1).

#### PART IX—MISCELLANEOUS PROVISIONS

**116. Board's existence to be reviewed.** (1) Within one year from the date (inclusive of that date) on which the cumulative deficit is eliminated, the Board shall submit to the Minister a recommendation:—

(a) that the Board shall continue to discharge its functions and exercise its powers in accordance with this Act; or

(b) that the Board should be dissolved and that for the purpose of exercising or performing the functions of local government in the operational area, there be constituted a Joint Local Authority pursuant to the provisions of the *Local Government Act 1936–1984*.

(2) Upon receipt of a recommendation made pursuant to this section, the Minister shall submit the recommendation to the Governor in Council for determination.

(3) For the purposes of this section:—

“cumulative deficit” means the amount formed by the successive addition of each year's deficit;

“deficit” means the amount in each year by which the total of the disbursements in the Board's Operating Fund exceeds the total of the receipts in that Fund.

**117. Board not liable for short supply.** (1) The Board is not liable to any penalty or damages on account of a failure to supply water or a restricted supply of water if such failure or restriction is by reason of a lessening of supply by the Board pursuant to section 53.

(2) The Board shall not be obliged to supply or be compelled to supply water to any Local Authority or major consumer or electricity generating authority at an hourly, daily or other periodic rate greater than is determined from time to time by the Board as the maximum allocation or rate of supply that can prudently be made available to the Local Authority or major consumer or electricity generating authority and advised to that Local Authority or major consumer or electricity generating authority.

**118. Extent of liability for escape of water.** The Board, a Local Authority operating works on behalf of the Board or any contractor of the Board shall not be liable, absolutely or vicariously—

- (a) for flooding or sending water upon any land by reason of works performed by or for it or them, as the case may be; or
- (b) for escape of water from headworks, treatment works or trunk mains under its or their control or from works being performed by or for it or them, as the case may be,

unless it be shown that the flooding, sending of water or escape is due to or arose out of the negligence of the Board or its servants or by a Local Authority operating works on behalf of the Board or its servants or a contractor of the Board or its servants in the construction, maintenance, control or management of the works, headworks, treatment works or trunk mains or mains in question or of the flow of water therein.

**119. Obstruction of Board's agents.** A person who obstructs or attempts to obstruct the Board or any agent of the Board in the performance of a function or the exercise of a power of the Board commits an offence against this Act.

**120. Assault on Board's agents.** A person who assaults or intimidates or attempts to assault or intimidate any agent of the Board while he is exercising a power or performing a duty under or for the purposes of this Act commits an offence against this Act.

**121. Interference with Board's property.** A person who takes down, removes or alters the position of any barricade erected by or on behalf of the Board or extinguishes or moves any light placed by the Board or on its behalf save under the authority of the Board or damages any property of the Board commits an offence against this Act.

**122. Regulations.** The Governor in Council on the recommendation of the Minister may make regulations not inconsistent with this Act providing for—

- (a) the form of the budget of the Board and the manner in which it shall be framed;
- (b) the accounts to be established by the Board and the manner in which they shall be maintained;
- (c) matters incidental to the proper administration of Part VI;
- (d) the preparation, adoption and amendment from time to time of an accounting manual by the Board, and the form and content thereof;
- (e) forms to be used for the purposes of this Act and the purposes for which such forms are to be used;
- (f) management of and use of catchment areas and reservoirs;
- (g) all matters required or permitted by this Act to be prescribed where a method of prescription is not otherwise provided for;

- (h) all matters whether general or to meet particular cases that may be convenient for the administration of this Act or that may be necessary or expedient to achieve the objects and purposes of this Act.

**123. By-laws.** (1) The Board, with the approval of the Governor in Council, may make by-laws not inconsistent with this Act providing for—

- (a) all matters and things necessary for the proper construction, maintenance, operation and control of its headworks, treatment works, trunk mains, works and undertakings;
- (b) supply of water from its headworks treatment works and trunk mains;
- (c) taking and use of water in its control;
- (d) the use, good management and preservation of land owned by or in the control of the Board;
- (e) recreational use of reservoirs and land owned by or in the control of the Board and of the waters therein or thereon;
- (f) protection of its property from trespass and damage; access of the public to specified parts of the Board's property and undertakings;
- (g) preservation of water in its control from pollution in any form and of banks of reservoirs from erosion;
- (h) the manner in which functions, powers and duties shall be discharged, exercised and performed by it or by any person for the purposes of this Act;
- (i) procedure and conduct of business at its meetings; custody and use of the common seal of the Board;
- (j) fees payable to it and the matters in respect of which such fees are payable;
- (k) matters that under this Act may be prescribed by by-laws of the Board;
- (l) all matters that in its opinion are necessary or desirable for the proper and efficient performance of its functions.

(2) A by-law may provide for the recoupment to the Board of expenses incurred by it in doing work—

- (a) required by the by-laws to be done where the person so required has failed to do the work; or
- (b) required to be done to remedy any damage occasioned by a breach of the by-laws,

by the person who has failed to do the work, or, as the case may be, has breached the by-laws.

**124. Manner of making by-laws.** (1) Every resolution making a by-law shall be passed at a special meeting of the Board called for the purpose.

(2) After the passing of a resolution making a by-law a copy of the by-law shall be kept available for public inspection at the Board's office until the expiration of the time specified in accordance with subsection (3).

(3) As soon as practicable after the passing of a resolution making a by-law the Board shall cause to be published at least once in a newspaper that circulates generally within the operational area of the Board a notice—

- (a) of the general purport of the by-law;
  - (b) that a copy of the by-law is available for inspection by any person at the Board's office up to and including a date specified in the notice being a date not less than 21 days after the publication or, if the notice is published more than once, after the first publication of the notice in the newspaper;
  - (c) that a copy of the by-law may be procured from the Board on or before the date so specified upon payment of a sum fixed by resolution of the Board but not exceeding the cost of printing or otherwise reproducing the copy, which sum shall be specified in the notice;
  - (d) that objections to the making of the by-law may be lodged with the Board at its office on or before the date so specified and that any such objection shall be in writing and shall state the grounds of objection and the facts and circumstances relied on by the objector in support of those grounds.
- (4) A person—
- (a) who wishes to object to the making of a by-law may do so by lodging his objection at the Board's office in accordance with the notice published under subsection (3) and not otherwise;
  - (b) is entitled to procure from the Board a copy of a by-law kept available for public inspection at the Board's office upon tender of the sum specified for that purpose in the notice published under subsection (3).

(5) The Board shall consider every objection duly made to the making of a by-law and if thereupon it resolves to proceed with the making of the by-law it shall cause to be forwarded to the Minister for submission to the Governor in Council—

- (a) a copy of the Board's resolution to make the by-law;
- (b) a copy of the by-law proposed to be made;
- (c) a copy of the notice published under subsection (3);
- (d) all objections duly made to the making of the by-law;
- (e) the representations of the Board in respect of all such objections;

- (f) a certificate under the hand of the Chairman and manager that the requirements of this section have been complied with in connexion with the making of the by-law in question.

(6) The Governor in Council may approve or reject a by-law of the Board submitted to him or he may approve of the by-law subject to such amendments as he thinks fit having regard to the objects of the by-law and of the objections to the by-law and representations of the Board in respect of the objections.

Where the requirements of this section have been complied with in connexion with the making of a by-law that is approved by the Governor in Council subject to amendments it shall be deemed that the by-law as so amended is the by-law duly made by the Board.

**125. Application of regulation or by-law and breaches thereof.** The regulations or by-laws—

- (a) may be made to apply generally throughout the operational area of the Board or within such part or parts of that area as may be specified therein;
- (b) may be made to apply generally in respect of the whole undertaking of the Board or in respect of such works of the Board as may be specified therein; and
- (c) may, for a breach of the same, prescribe a penalty which, when expressed as a lump sum, shall not exceed \$1 000 and, when expressed as a daily penalty, shall not exceed \$100 per day.

**126. Publication and operation of by-laws.** Section 28A of the *Acts Interpretation Act 1954–1977* (Tabling of Regulations) applies in respect of by-laws made by the Board as if they were regulations.

**127. Intervention in Board's affairs.** (1) The Governor in Council may, by Order in Council—

- (a) repeal a by-law or any part of a by-law of the Board;
- (b) suspend or rescind any resolution or order of the Board;
- (c) prohibit the expenditure of money from any fund of the Board upon work that he considers unnecessary or which, in his opinion, will impose undue burden upon the inhabitants of or major consumers within the operational area or electricity generating authority whether within the operational area or otherwise of the Board.

(2) A resolution of the Board rescinded by the Governor in Council shall be taken to be void *ab initio* unless the Governor in Council specifies a later date for that purpose, in which case the resolution shall be taken to be void on and from that specified date.

Upon the coming into effect of a rescission of a resolution of the Board—

- (a) the making by or on behalf of the Board of a contract;
- (b) the acceptance by or on behalf of the Board of a tender; or
- (c) the doing by or on behalf of the Board of any act or thing, pursuant to or allegedly pursuant to authority conferred by such resolution shall be void—
- (d) on and from the date specified by the Governor in Council as the date on and from which such resolution shall be void; or
- (e) *ab initio*, where no such date is specified by the Governor in Council.

(3) Where any contract, acceptance, act or thing becomes void *ab initio* pursuant to subsection (2), no action, claim or demand shall lie or be made or allowed against the Board or any member, servant or agent of the Board for or in respect of any damage, loss or injury sustained or alleged to have been sustained or for or in respect of any other right or remedy conferred or alleged to have been conferred by reason of the making of the contract or the acceptance or the doing of the act or thing.

(4) Where a contract becomes void *ab initio* pursuant to subsection (2), if a party to the contract (other than the Board) satisfies the Governor in Council that—

- (a) he entered into the contract in good faith; and
- (b) prior to the rescission by the Governor in Council of the resolution that authorized the making by the Board of the contract, he had incurred expense in or for the purpose of performing the contract,

the Governor in Council may, in writing, direct the Board to pay to that party the amount of such expense and the Board shall comply in all respects with such direction.

An amount so directed to be paid and unpaid shall constitute a debt due and owing by the Board to the party concerned.

**128. Service of documents.** (1) (a) A document to be served on or given to the Board shall be sufficiently served on or given to the Board if it is delivered to or left at its public office.

(b) A document left at the public office for service on the Board may be served or given by delivering the same or a true copy thereof to some person at the office or, if there is no person at the office to whom such delivery can be made, by affixing the same or a true copy thereof to some conspicuous part of the premises.

(2) A document to be served on or given to any person by the Board or by an agent of the Board acting in the course of his duty shall be sufficiently served or given if—

- (a) it is delivered to that person;

- (b) it is left at that person's address for service;
- (c) it is sent by post addressed to that person at his address for service; or
- (d) in the case of a summons, it is served in any manner provided by law for the service of a summons.

A document left at a person's address for service, if it is addressed to that person, may be served or given by delivering the same or a true copy thereof to some person at the premises at that address or, if there is no person at that address to whom such delivery can be made, by affixing the same or a true copy thereof to some conspicuous part of the premises.

In this subsection the expression "address for service" means, in respect of any person, his usual place of residence or business or his place of residence or business last known to the manager or his address for service last notified by him to the Board or the manager or his registered office for the purpose of any Act that requires him to have a registered office.

**129. Proof of Board's documents.** (1) A document purporting to be issued or made by or under the direction of the Board and signed by the Chairman or the manager shall be admitted in evidence in all courts and proceedings and shall be deemed to be issued or made by or under the direction of the Board until the contrary is proved.

- (2) Evidence of a by-law made by the Board may be given—
  - (a) by production of the Gazette purporting to contain it; or
  - (b) by production of a document purporting to be a copy of it and to be printed by the Government Printer or by the authority of the Government of the State.

**130. Search of titles without fee.** The Registrar of Titles, the Registrar of Dealings and every mining registrar shall permit the manager or other authorized agent of the Board to make, free of charge, searches of, copies of and extracts from any book, plan or document in his charge that relates to the registration of land in the operational area of the Board.

**131. Returns to the Minister.** (1) The Minister may from time to time request the Board to furnish him with its report on such matters as he nominates and may fix a reasonable time within which the return is to be furnished.

(2) Where a return is furnished pursuant to the Minister's request made under subsection (1) a person appointed for the purpose by the Minister shall at any time have access to all records of the Board and may examine the same with a view to verifying the accuracy of the return.

(3) If the Board refuses or fails to furnish a return in compliance in all respects with the Minister's request or furnishes a return that is



false in a material particular the Board and each person who is privy to such refusal, failure or the making of the false return is liable to a penalty not exceeding \$100.

(4) A person who obstructs or hinders any person referred to in subsection (2) in the exercise of his powers under that subsection commits an offence against this Act and is liable to a penalty not exceeding \$100.

**132. Annual report.** (1) Once in each year the Board shall furnish to the Minister a report on its operations during the year last preceding.

The report shall include such statements of account and other financial and relevant information as may be prescribed, together with the certificate of the Auditor-General prescribed by section 85.

(2) The Minister shall lay the report of the Board before the Legislative Assembly within 14 sitting days from the day on which he receives the report.

**133. Offence provision.** (1) A person who contravenes or fails to comply with any provision of this Act commits an offence against this Act.

(2) A person who—

(a) commits an offence against this Act; or

(b) contravenes or fails to comply with any provision of the Board's by-laws,

may be prosecuted in respect thereof in a summary way under the *Justices Act* 1886-1982 and, save where another penalty is specifically provided by this Act, is liable to a penalty of \$1 000.

**134. Control of money and property.** (1) Whenever it appears to or comes to the knowledge of the Board that, arising from a cause which could constitute an offence under *The Criminal Code* or any other Act or law, there is—

(a) a loss of or deficiency in any moneys of or under the control of the Board; or

(b) a loss of, destruction of or damage to property of or under the control of the Board,

the Board shall forthwith give notice thereof to the Auditor-General and to a member of the Police Force of Queensland appointed to be in charge of the Police Station established at, or nearest to, the locality where the money or property was lost, deficient, destroyed or, as the case may be, damaged.

(2) The Board shall not—

(a) abstain from, discontinue or delay a prosecution for an offence under the laws of the State in relation to any money or property of or received by the Board which is or appears to be stolen or wilfully destroyed or damaged;

(b) withhold or promise to withhold or delay any evidence for the purposes of such prosecution.

**135. Appropriation of penalties.** Unless otherwise expressly provided by this Act, all penalties under this Act recovered by the Board or by a person authorized by the Board for that purpose shall be paid to the Board.