

## [AS REPORTED FROM THE LOCAL BILLS COMMITTEE.]

House of Representatives, 20th August, 1926.

Mr. J. S. Dickson.

## AUCKLAND PROVINCIAL WATER BOARD.

## LOCAL BILL.]

## ANALYSIS.

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| <p>Title.</p> <p>1. Short Title.</p> <p>2. Interpretation.</p> <p style="text-align: center;"><i>The District.</i></p> <p>3. Description of district.</p> <p style="text-align: center;"><i>The Board.</i></p> <p>4. Constitution of Board.</p> <p>5. Members of Board.</p> <p>6. Ratepayers roll.</p> <p>7. Election of members.</p> <p>8. First election.</p> <p>9. Members coming into office.</p> <p>10. Date of general election.</p> <p>11. Qualification of members.</p> <p style="text-align: center;"><i>Extraordinary Vacancies.</i></p> <p>12. Extraordinary vacancies.</p> <p>13. Filling extraordinary vacancy.</p> <p>14. Validity of acts not affected by defects.</p> <p style="text-align: center;"><i>Ouster of Office.</i></p> <p>15. Ouster of office.</p> <p style="text-align: center;"><i>The Chairman.</i></p> <p>16. Chairman of Board.</p> <p>17. Remuneration of chairman.</p> <p style="text-align: center;"><i>Committees.</i></p> <p>18. Board may appoint standing or special committees.</p> <p>19. Committee may exercise delegated powers.</p> <p>20. Committee to be subject to direction by Board.</p> <p>21. Chairman of committee.</p> <p>22. Discharge of committee.</p> <p style="text-align: center;"><i>Proceedings of Boards and Committees.</i></p> <p>23. Open voting.</p> <p>24. Chairman to preside at Board meetings.</p> <p>25. Member of Board or committee not to vote on question in which he has pecuniary interest.</p> <p>26. Quorum of Board and of committee.</p> <p>27. Questions to be decided by majority of votes.</p> <p>28. Proceedings not to be invalid by reason of irregularities in election of members, &amp;c.</p> | <p>29. Ordinary meetings of Board.</p> <p>30. Special meetings.</p> <p>31. Adjournment of meetings.</p> <p>32. Postponement of meetings.</p> <p>33. Meetings to be open to public unless Board otherwise determines.</p> <p>34. Extraordinary business.</p> <p>35. Revocation or alteration of resolutions.</p> <p>36. Proceedings not invalidated by failure to give notice.</p> <p>37. Minutes of proceedings to be kept.</p> <p>38. Remuneration of Board.</p> <p style="text-align: center;"><i>Special Orders.</i></p> <p>39. Special orders, how made.</p> <p style="text-align: center;"><i>Regulation of Procedure.</i></p> <p>40. Board may make by-laws.</p> <p style="text-align: center;"><i>Public Office.</i></p> <p>41. Offices of Board.</p> <p style="text-align: center;"><i>Officers.</i></p> <p>42. Appointment of officers of Board.</p> <p>43. Acting officers.</p> <p style="text-align: center;"><i>Finance.</i></p> <p>44. Borrowing-powers of Board.</p> <p>45. Local authority may make advance for preliminary expenses.</p> <p>46. Estimated income and expenditure of Board.</p> <p>47. Board may levy rate for excess of expenditure.</p> <p>48. Rates, how made.</p> <p>49. Collection of rates.</p> <p>50. Collection of rates by Board.</p> <p>51. Rates may be collected by local authority.</p> <p>52. Liability of local authority for failing to collect rates.</p> <p>53. Valuer-General to supply statements for rateable values.</p> <p>54. Board may borrow moneys by way of overdraft.</p> <p>55. Board may establish special funds.</p> <p>56. Water Fund Account.</p> <p>57. Board to keep proper accounts.</p> <p>58. Balance-sheets and audit.</p> |
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<i>Construction and Purchase of Waterworks.</i>	<i>Miscellaneous Provisions.</i>
59. Board may construct waterworks.	71. Contracts of Board, how made.
60. Board may make survey or inspection.	72. Judge or Magistrate being a ratepayer not thereby interested in proceedings.
61. Board may hold and occupy land and exercise incidental powers.	73. Service of process on Board.
62. Powers of Board outside district.	74. Trustee Act, 1908, to apply.
63. Alteration of roads, &c., by Board.	75. Authorizing payment of certain expenses out of loan-moneys.
64. Temporary occupation and use of land for construction purposes.	76. Penalties for causing damage to waterworks.
65. Notice to be given to occupier of intention to occupy lands:	77. Offences with respect to waterworks.
66. Disposal of lands taken but not required.	78. Recovery of fines.
67. Compensation for lands taken or injuriously affected.	79. Notice to be given of intention to commence actions.
<i>By-laws.</i>	80. Regulations.
68. By-laws of Board.	81. Protection of Board against claims by consumers.
69. Method of making by-laws.	82. Board may cause trees to be removed.
70. Penalties for breach of by-laws.	

### A BILL INTITULED

Title.	AN ACT to provide for the Establishment and Powers of a Water Board for a Portion of the Auckland Province.	
Short Title.	BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—	5
Interpretation.	1. This Act may be cited as the Auckland Provincial Water Board Act, 1926.	
	2. In this Act, if not inconsistent with the context,—	
	“Board” means the Auckland Provincial Water Board constituted under this Act.	10
	“Constituent district” means any borough, town district, county, or road district situated within and forming part of the Auckland Provincial Water District:	
	“District” means the Auckland Provincial Water District constituted under this Act and as altered or enlarged from time to time:	15
	“Engineer” means the Engineer for the time being of the Board:	
	“Financial year” means a period of twelve months ending on the thirty-first day of March in each year:	20
	“Minister” means the Minister of Public Works:	
	“Prescribed” means prescribed by this Act, or by by-laws or regulations made under this Act:	
	“Ratepayer” means a person whose name appears for the time being in the “Occupiers” column in the valuation roll of a constituent district in respect of rateable property within that district: Provided that in all cases where the name of a husband or wife appears in such column, then the term “ratepayer” shall include each of them:	25
	“Secretary” means the Secretary for the time being of the Board:	30
	“Ward” means a ward of the district as constituted under the provisions of this Act:	
	“Waterworks” means and includes all streams and waters and all rights appertaining thereto, and all lands, watersheds, catchwater areas, reservoirs, dams, tanks, pipe-lines, and pipes, and all buildings, machinery, and appliances of every	35

kind required or constructed by the Board under the authority of this Act for collecting or conveying water for or to the district, or any part thereof, or beyond the district, under the provisions in that behalf hereinafter contained.

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*The District.*

3. (1.) The boroughs of Mount Eden, Mount Albert, Newmarket, Devonport, Takapuna, Birkenhead, Northcote, Avondale, and Otahuhu; the road districts of One Tree Hill, Mount Roskill and Tamaki West; the town districts of New Lynn, Ellerslie, Manurewa, Papatoetoe, and Howick; and the County of Manukau shall for the purposes of this Act form one district to be known as the Auckland Provincial Water District. Description of district.

(2.) The district shall be divided into wards comprising the following constituent districts, that is to say: Ward No. 1, comprising the Borough of Takapuna; Ward No. 2, comprising the Borough of Mount Eden; Ward No. 3, comprising the Borough of Mount Albert; Ward No. 4, comprising the Borough of Onehunga; Ward No. 5, comprising the Borough of Newmarket and the Road District of One Tree Hill; Ward No. 6, comprising the Borough of Avondale and the Town District of New Lynn; Ward No. 7, comprising the Road District of Mount Roskill; Ward No. 8, comprising the Borough of Otahuhu; Ward No. 9, comprising the town districts of Ellerslie, Manurewa, Papatoetoe, and Howick; Ward No. 10, comprising the County of Manukau.

(3.) The Governor-General may at any time and from time to time, by Proclamation published in the *Gazette*, with the consent of the Board and of the local authority of the area concerned, alter the boundaries of the district by including therein any local district not now included therein, or by excluding therefrom any local district now included therein; and may by like Proclamation make any alterations in the boundaries of the wards by including in any ward any constituent or local district not now included therein, or by excluding therefrom any constituent or local district now included therein, or by creating any new ward comprising such constituent or local districts as may be determined.

*The Board.*

4. (1.) There shall be for the district a Water Board constituted as hereinafter provided. Constitution of Board.

(2.) The said Board shall be a body corporate under the name of the Auckland Provincial Water Board, and shall have perpetual succession and a common seal, with power to purchase, take, hold, deal with and dispose of real and personal property, and to do and suffer all that bodies corporate may lawfully do and suffer.

5. (1.) The Board shall consist of members elected by the rate-payers of the respective wards as hereinafter provided. Members of Board.

(2.) Each ward shall be entitled to the following representation:—  
(a.) In the case of a ward where the population does not exceed ten thousand, one member.

(b.) In the case of a ward where the population exceeds ten thousand, two members.

(3.) For the purposes of this section the population of each ward shall be the aggregate of the populations of the several constituent districts comprising such ward as appearing in the last Government census of population.

(4.) Every ratepayer shall have one vote only, even though he is a ratepayer of more than one constituent district.

(5.) Every such election shall be held under and subject to the provisions of the Local Elections and Polls Act, 1925, and the provisions of that Act, including the penal provisions thereof and the provisions relating to disputed elections, shall, so far as applicable and as far as consistent with this Act, apply accordingly; and the Board shall be deemed a local authority under that Act for all the purposes of this Act.

Ratepayers roll.

6. (1.) For the purposes of any election or poll under this Act the rolls of the ratepayers of the several constituent districts in each ward taken together, or so much of those rolls as relates to lands within any defined portion of a ward as the case may require, shall be deemed to be the roll of the ratepayers of the ward or of such defined portion as aforesaid.

(2.) It shall be the duty of the Clerk of the local authority of each constituent district, whenever requested so to do by the Board (or by the Mount Eden Borough Council in the case of the first election), to supply to the Board or to the Mount Eden Borough Council, as the case may be, a certified roll of the ratepayers of such constituent district or any defined portion thereof, together with as many copies thereof as the Board may require.

(3.) The Board shall pay the sum of one shilling for such *roll and each copy*.

Election of members.

7. (1.) At any election or poll under this Act only ratepayers as hereinbefore defined shall be entitled to vote.

(2.) At any such election or poll the vote of any ratepayer may be recorded at any polling-place within any ward in which is situated rateable property in respect of which he is a ratepayer, or at any polling-place within or without the district which may be specially appointed as a polling-place at which may be recorded the votes of ratepayers irrespective of the location of the rateable property in respect of which they are entitled to vote.

(3.) For the purposes of any such election or poll any Returning Officer appointed by the local authority of a constituent district may be appointed a Returning Officer or Deputy Returning Officer of the Board for any ward or for any constituent district.

First election.

8. (1.) The first election of members of the Board shall be held during the month of October in the year nineteen hundred and twenty-six, and the Mount Eden Borough Council shall make all necessary provision for the holding of such election.

(2.) The expenses of such election shall be paid in the first instance by the Mount Eden Borough Council; but such expenses shall be refunded by the Board to the Mount Eden Borough Council upon demand.

(3.) The Mount Eden Borough Council shall make all necessary arrangements for the first meeting of the Board.

Members coming into office.

9. Each member of the Board shall come into office upon his election, and shall, unless his office sooner becomes vacant, hold office until the election of his successor.

Date of general election.

10. In the month of October in the year nineteen hundred and thirty, and in the month of October in every fourth year thereafter, a general election of members of the Board shall be held.

Qualification of members.

11. (1.) No person other than a ratepayer shall be capable of being elected or appointed as a member of the Board.

(2.) The following persons shall be incapable of being elected to be members of the Board, that is to say:—

- (a.) A minor :
- (b.) An alien :
- 5 (c.) A person of unsound mind :
- (d.) A bankrupt who has not obtained his order of discharge, or whose order of discharge is suspended for a term not yet expired or is subject to conditions not yet fulfilled :
- 10 (e.) A person convicted of any offence punishable by imprisonment, unless he has received a free pardon or has served his sentence, or otherwise suffered the penalty imposed on him :
- (f.) A person who holds any office or place of profit under or in the gift of the Board :
- 15 (g.) A person who is concerned or interested (otherwise than as a member of an incorporated company in which there are more than twenty members and of which he is not the general manager or manager) in any contract made by the Board (other than a contract relating to land entered upon or taken, or proposed to be entered upon or taken, for water-
- 20 works under the authority of this Act) if the payment made or to be made by the Board in respect of any such contract exceeds five pounds in the case of a single contract, or ten pounds altogether in any financial year in the case of two or more contracts, except in special cases to be previously
- 25 approved by the Audit Office on the application of the Board. In any such special case the Audit Office may authorize the payment and receipt of such amount as it thinks fit, not exceeding in the aggregate fifty pounds, in any financial year in respect of any contract or of two or
- 30 more contracts :}

Provided that an interest in any loan raised by the Board whether on security or otherwise, or in any newspaper in which the Board inserts advertisements, or in any lease granted or agreed to be granted to or by the Board, shall

35 not constitute a disqualification under this paragraph.

*Extraordinary Vacancies.*

12. (1.) The office of a member shall become vacant if he—
- (a.) Dies ; or
  - 40 (b.) Resigns his office by writing under his hand delivered to the Secretary or Chairman of the Board, or is ousted of office ; or
  - (c.) Becomes a bankrupt, or makes any composition with his creditors for less than twenty shillings in the pound, or makes an assignment of his estate for the benefit of his
  - 45 (d.) Becomes of unsound mind ; or
  - (e.) Is convicted on an indictment, or is sentenced by the Supreme Court on a plea of " Guilty " to any charge of an indictable offence, or is sentenced by the Court for an offence to imprisonment without the option of a fine, or to reformative
  - 50 (f.) Is absent without leave from four consecutive meetings of the Board ; or

Extraordinary  
vacancies.

- (g.) Holds any office or place of profit under or in the gift of the Board ; or
- (h.) Is concerned or interested (otherwise than as a member of an incorporated company in which there are more than twenty members and of which he is not the general manager or manager) in any contract made by the Board (other than a contract relating to land entered upon or taken, or proposed to be entered upon or taken, for waterworks under the authority of this Act) if the payment made or to be made by the Board in respect of any such contract exceeds five pounds in the case of a single contract, or ten pounds altogether in any financial year in the case of two or more contracts, except in special cases to be previously approved by the Audit Office on the application of the Board. In any such special case the Audit Office may authorize the payment and receipt of such amount as it thinks fit, not exceeding in the aggregate fifty pounds, in any financial year in respect of any contract or of two or more contracts :  
 Provided that an interest in any loan raised by the Board whether on security or otherwise, or in any newspaper in which the Board inserts advertisements, shall not constitute a cause of forfeiture under this paragraph.
- (i.) Is convicted of an offence against section *twenty-five* hereof.
- (2.) If any person does an act as a member after his office has become vacant under this section, he shall be liable on summary conviction to a fine of *fifty* pounds.
- (3.) If any member becomes concerned or interested in any contract made by the Board so as thereby to forfeit his office under this section, he shall be liable on summary conviction to a fine of *fifty* pounds, and shall not be entitled to enforce that contract as against the Board ; and all moneys paid to him by the Board in respect of the contract shall constitute a debt due by him to the Board, and shall be recoverable by action accordingly in any Court of competent jurisdiction.
- (4.) Every member who knowingly takes part in the making by the Board of any contract in which any other member is so concerned or interested as thereby to forfeit his office under this section is liable on summary conviction to a fine of *fifty* pounds.
- (5.) It shall be the duty of the Audit Office to institute proceedings for the recovery of any fine under this section, but nothing herein shall be so construed as to prevent such proceedings from being taken by any other person.
- (6.) Any member who becomes concerned or interested in any contract made by the Board so as thereby to forfeit his office under this section shall be disqualified for three years after the date of that forfeiture from being elected or appointed as a member of the Board.
- (7.) Any vacancy occurring under this section or under section *fifteen* hereof shall be deemed an extraordinary vacancy.
13. In the event of an extraordinary vacancy occurring within twelve months of the time fixed for the next general election of members of the Board the same may be filled by the Board, and in other cases the provisions of the Local Elections and Polls Act, 1925, relating to extraordinary vacancies shall apply.

Filling  
 extraordinary  
 vacancy.

14. The constitution of the Board and the validity or legality of acts done by the Board shall not be affected by any error or defect in the election of any member of the Board, or by the fact that the full number of members has not been elected, or by the fact that any person acting as a member of the Board is disqualified or has vacated his seat.

Validity of acts not affected by defects.

*Ouster of Office.*

15. (1.) Upon proof in the first instance by affidavit or otherwise that any member of the Board is or has become incapable under this Act of holding his office, any Magistrate's Court in the district may grant a summons calling upon the person holding such office to show cause why he should not be adjudged so be ousted of the same.

Ouster of office.

(2.) If on the return of such summons it appears to the Court, on affidavit or oral evidence on oath, that such person is incapable under this Act of holding the said office, the Court may adjudge such person to be ousted of the same, and such person shall be ousted of such office accordingly.

(3.) In any such proceeding the Magistrate's Court may exercise all the powers and authorities which it may exercise in its ordinary jurisdiction in civil cases, and the procedure of such Court shall, so far as applicable, apply generally to proceedings had under this section.

(4.) No matter in relation to a disputed election shall be heard by the Magistrate's Court under this section.

(5.) No question which may be tried under this section shall be tried in the Supreme Court; and no proceedings in the Magistrate's Court hereunder shall be removable into the Supreme Court by certiorari or otherwise.

*The Chairman.*

16. (1.) The Board shall at its first meeting, and thereafter at each annual meeting, elect one of its members to be Chairman of the Board.

Chairman of Board.

(2.) At every meeting for the election of a Chairman the Secretary shall preside, and in any case of an equality of votes shall determine the election by lot in such manner as the Board directs.

(3.) The Chairman shall come into office on his election, and shall hold office until the election of his successor.

(4.) The Chairman may resign his office by writing under his hand delivered to the Secretary; and in such case, or in the case of his ceasing from any cause to be a member of the Board, his office shall become vacant, and the Secretary shall forthwith convene a meeting of the Board for the election of a fresh Chairman.

(5.) The Board may from time to time appoint one of its members to be Deputy Chairman either for a specified period or until the next annual meeting of the Board.

17. (1.) The Chairman may be paid out of the funds of the Board such annual allowance as may from time to time be fixed by the Board with the approval of the Minister, but no alteration in the amount of the allowance shall take effect during the term of office of the Chairman for the time being. The receipt of an allowance under this section shall not constitute a cause of forfeiture of office under section twelve hereof.

Remuneration of Chairman.

(2.) For the purpose of this section a person re-elected Chairman shall be deemed a new Chairman.

*Committees.*

Board may appoint standing or special committees.

18. The Board may from time to time appoint standing or special committees, and may relegate to such committees any matter for consideration or inquiry or management or regulation, and may delegate to any such committee any of the powers and duties by this Act conferred or imposed upon the Board, except the powers to borrow money, to make a rate, to make a by-law, to execute a deed or contract, or to institute an action. 5

Committee may exercise delegated powers.

19. Every committee to which any powers or duties are delegated as aforesaid may, without confirmation by the Board, exercise or perform the same in like manner and with the same effect as the Board could itself have exercised or performed the same. 10

Committee to be subject to direction by Board.

20. Every such committee shall be subject in all things to the control of the Board, and shall carry out all directions, general or special, of the Board given in relation to such committee or its affairs. 15

Chairman of committee.

21. The Board appointing any committee may appoint a member of such committee to be the permanent Chairman thereof, and if no such appointment is made the committee may make the appointment.

Discharge of committee.

22. The Board may from time to time discharge, alter, continue, or reconstitute any committee appointed by it. 20

*Proceedings of Boards and Committees.*

Open voting.

23. Every question coming before the Board or any committee shall be decided by open voting.

Chairman to preside at Board meetings.

24. At every meeting of the Board the Chairman, if present, or in his absence the Deputy Chairman (if any) shall be Chairman. At every meeting of any committee the permanent Chairman thereof, if present, shall be Chairman. If the Chairman and Deputy Chairman (if any) are absent from any meeting of the Board, or if the permanent Chairman is absent from any meeting of the committee, then such member as the members of the Board or committee then present choose shall be Chairman of such Board meeting or committee meeting, as the case may be. 25 30

Member of Board or committee not to vote on question in which he has pecuniary interest.

25. (1.) A member of the Board or committee shall not vote or take part in the discussion of any matter before the Board or Committee in which he has, directly or indirectly, by himself or his partner, any pecuniary interest otherwise than as occupier or owner of rateable property or as a member of an incorporated company in which there are more than twenty members and of which he is not the general manager or manager. 35

(2.) A member who knowingly offends against this section is liable to a fine not exceeding *fifty* pounds for every such offence, and upon conviction his seat on the Board and on any committee shall become vacant. 40

(3.) It shall be the duty of the Audit Office to institute proceedings under this section, but nothing herein shall be so construed as to prevent such proceedings from being taken by any other person. 45

Quorum of Board and of committee.

26. (1.) A quorum of the Board shall consist of half the total number of the members of the Board (irrespective of any casual vacancies) when that number is even, and a majority of such members when the number is odd. 50



(2.) The Board may fix the quorum of any committee appointed by it, and in default of its so doing the committee may fix such quorum.

(3.) A meeting shall be duly constituted if a quorum is present thereat, whether voting or not.

5 27. (1.) All acts of the Board and of any committee, and all questions before the Board or any committee, may be done and decided by the majority of such members of the Board or committee as are present and vote at a meeting held in pursuance of this Act or of any regulation or by-law made thereunder.

Questions to be decided by majority of votes.

10 (2.) The Chairman of any meeting of the Board or of any committee shall have a deliberative vote, and in case of equality of votes shall have a casting-vote also.

28. No act or proceeding of the Board or of any committee or of any person acting as a member of the Board shall be invalidated in consequence of there being a vacancy in the number of the Board at the time of such act or proceeding, or of the subsequent discovery that there was some defect in the election or appointment of any person so acting, or that he was incapable of being such member.

Proceedings not to be invalid by reason of irregularities in election of members, &c.

29. (1.) The Board shall hold such ordinary meetings at such times and at such places as it from time to time appoints.

Ordinary meetings of Board.

(2.) The Chairman or the Secretary shall give notice in writing to each of the members of the time and place appointed from time to time for holding ordinary meetings, and the members shall attend such meetings without further notice of each meeting.

30 (3.) The Board shall hold an annual meeting in the month of May in each year at the office of the Board.

30. (1.) The Board may hold special meetings, and the Chairman or any three or more of the members may call a special meeting.

Special meetings.

(2.) No special meeting shall be held unless at least three days' notice thereof in writing and of the business to be transacted thereat has been given to members, and no business shall be transacted at a special meeting unless notice thereof has been so given.

31. Any meeting of the Board may be adjourned to another day not later than seven days thereafter, and notice of such adjourned meeting shall be given to each member.

Adjournment of meetings.

32. If a quorum is not present within half an hour of the time appointed for any meeting, the Chairman, or members, or member (if there is only one) present, or the Secretary if no member is present, shall postpone such meeting either to a later hour on the same day or to the next day at the usual hour of meeting. No notice of any such postponement need be given. A postponed meeting may be adjourned but not postponed.

Postponement of meetings.

33. (1.) Meetings of the Board shall be open to the public, but the Board, for sufficient cause, of which it shall be the sole judge, may exclude strangers altogether from any meeting.

Meetings to be open to public unless Board otherwise determines.

(2.) The Chairman at any meeting may order any constable or officer of the Board to exclude or remove any stranger from the meeting on account of noisy or disorderly conduct or intoxication.

34. (1.) No extraordinary business shall be transacted at any ordinary meeting of the Board unless due notice of such business has been given at a prior meeting, or forwarded to the Chairman or Secretary seven days at least before the meeting at which it is to be brought forward,

Extraordinary business.

and at least three days' notice in writing of such business has been sent out to each member.

(2.) Subject to the by-laws of the Board, the Chairman of the meeting shall determine what business shall be deemed to be extraordinary within the meaning of this section. 5

Revocation or alteration of resolutions.

35. (1.) Any resolution of a meeting of the Board may (save as to anything theretofore lawfully done thereunder) be revoked or altered at the same meeting by the unanimous vote of the members present when it was passed, or by a resolution passed at a subsequent meeting of the Board. 10

(2.) Notice of such subsequent meeting and of the proposal to revoke or alter such resolution shall be given to each member three days at least before such subsequent meeting.

Proceedings not invalidated by failure to give notice.

36. No act or proceeding of the Board shall be invalidated in consequence of any failure to give to any member of the Board due notice of any meeting or of the business to be transacted thereat. 15

Minutes of proceedings to be kept.

37. (1.) The Secretary shall keep the minutes of the proceedings of the Board in a book, in which he shall enter, subject to the directions of the Board, the names of the members attending each meeting, and the names of the members voting on each question on which there is a division, and every resolution, order, or other proceeding of the Board, and any other matter directed by the Board to be entered upon the minutes. 20

(2.) The minutes of the proceedings of every meeting shall be read at the next ordinary meeting succeeding, and, if approved by the Board, or when amended as directed by the Board, shall be signed by the Chairman of such succeeding meeting. 25

(3.) The minutes of proceedings of any meeting of the Board kept as above provided, or an extract thereof certified as correct by the Chairman or Secretary, shall, unless the contrary is proved, be received as evidence of such proceedings and of the due convening and holding of the meeting; and the validity of all such proceedings shall be presumed unless the contrary is proved. 30

(4.) The minute-book of the Board shall be kept in the office of the Board, and shall be open for inspection without fee during all office hours by any member of the Board or by any creditor or ratepayer of the district. 35

Remuneration of Board.

38. (1.) The Board may, out of the funds, pay to members such reasonable remuneration for their services as may be or have been prescribed by regulations under this Act. The receipt of any payment under this section shall not constitute a cause of forfeiture of office under section *twelve* hereof. 40

(2.) There may be paid to the Chairman and to the members of the Board, out of the funds of the Board, all amounts actually and reasonably expended by them in attending meetings of the Board or of any committee thereof, or in transacting any business of the Board pursuant to a resolution of the Board. 45

#### *Special Orders.*

Special orders, how made.

39. (1.) The power given by this or any other Act to the Board to do anything by special order shall be exercised only as follows:— 50

- (a.) Notice of the intention to move the resolution to do such thing shall be given as for extraordinary business, and the resolution shall be passed at the meeting for which the notice was given :
- 5 (b.) The resolution shall be confirmed at a subsequent meeting held not sooner than the twenty-eighth day and not later than the fifty-sixth day after the first meeting :
- (c.) Public notice of the time and place fixed for the subsequent meeting, and of the resolution, shall be given once in each
- 10 of the four weeks immediately preceding the day on which the subsequent meeting is to be held :
- (d.) In publicly notifying the resolution it shall be sufficient to set forth the object, purport, or general effect thereof if a copy of the resolution is deposited at the public office of the
- 15 Board and is open to the inspection of the public for at least seven days immediately preceding the day appointed for the holding of the subsequent meeting.
- (2.) A special order may (save as to anything theretofore lawfully done thereunder) be revoked or altered by a subsequent special order.
- 20 (3.) A document purporting to be a copy of any special order, sealed with the common seal of the Board, shall be received as evidence for all purposes of the special order of which such document purports to be a copy, having been duly made in accordance with this Act, unless the contrary is proved.
- 25 (4.) A special order shall not be quashed by any proceedings in any Court or otherwise, unless such proceedings are commenced within six months from the making of the special order.

*Regulation of Procedure.*

40. The Board may, subject to the provisions of this Act, make

Board may make by-laws.

30 by-laws or pass resolutions—

- (a.) Regulating the proceedings of the Board and the conduct of meetings thereof respectively :
- (b.) Regulating the adjournment of meetings of the Board :
- 35 (c.) Directing notices of meetings to be given, and prescribing the form and mode and time of service thereof :
- (d.) Regulating debates :
- (e.) Providing for the custody of documents and the custody and use of the common seal, and prescribing the mode and form of attestation thereof :
- 40 Provided that no by-law or resolution made or passed under this paragraph shall affect any person acting in good faith and taking or to take any estate, interest, or advantage under any document having or about to have the common seal affixed thereto :
- 45 (f.) Prescribing the duties of officers and servants :
- (g.) Prescribing forms of and in connection with any proceedings of the Board :
- (h.) Concerning anything incidental to any of the matters hereinbefore referred to.

*Public Office.*

Offices of Board.

41. The Board may from time to time provide public offices within or without the district with fitting furniture for the same for holding its meetings and transacting its business, and for the use of its officers, and for any other purposes; and may purchase or take on lease land or buildings for such purposes, or may cause buildings to be erected on any land belonging to or leased to the Board, or any such building to be added to or improved. 5

*Officers.*

Appointment of officers of Board.

42. (1.) The Board may by resolution from time to time appoint fit persons to be Secretary, Treasurer, Engineer, Surveyor, Manager, and all such other officers and servants as it thinks necessary to assist in the execution of this Act, and may pay such persons such salaries and allowances out of the funds of the Board as it thinks fit. 10

(2.) No member of the Board shall be capable of holding any such office, unless without remuneration. 15

(3.) One person may hold two or more of such offices.

Acting officers.

43. During the absence from duty of any officer of the Board, by reason of illness, leave of absence, or other cause, the duties and powers of such officer may be performed and exercised by an acting-officer appointed by the Board; and any such appointment may be either general or for some occasion only. 20

*Finance.*

Borrowing-powers of Board.

44. (1.) The Board may from time to time borrow such sums as are necessary for the undertaking pursuant to this Act. 25

(2.) Such sums shall be borrowed in the manner prescribed by the Local Bodies' Loans Act, 1913, all the provisions of which Act shall accordingly extend and apply as if the Board were a local authority and the district a district within the meaning of that Act, subject always to the provisions of this Act: 30

Provided that no joint loan shall be raised except with the consent of the Governor-General in Council.

(3.) Under the provisions of this section the Board shall be at liberty to raise a loan for an authorized purpose for the benefit of a defined part or defined parts of the district (whether called by a distinctive name or not), and in any such case every ward and every constituent district within the defined part or parts shall without limiting the meaning of the expression "legal subdivision" as used in section three of the Local Bodies' Loans Act, 1913, be deemed to be a legal subdivision. 40

(4.) Notwithstanding anything to the contrary in the Local Bodies' Loans Act, 1913, a loan may be raised by the Board for the benefit of defined parts of the district although such parts may not together form one continuous area.

Local authority may make advance for preliminary expenses.

45. The local authority of any constituent district may out of its general fund contribute by way of advance such sum as it thinks fit, not exceeding in any case the sum of five hundred pounds, towards the expenses of the investigation of matters incidental to the supply of water to the constituent districts or any of them, and in connection 45

with and incidental to the constitution of the district and the election of the Board, including the cost of promoting and passing this Act, and towards any expenses that may be incurred by the Board before the end of the financial year in which it is constituted. All moneys  
 5 advanced by a local authority under this section shall be repayable by the Board on demand, and shall be recoverable by the local authority as a debt due to it by the Board.

46. (1.) The Board shall during the month of May in every year, or as soon thereafter as may be, make an estimate—

Estimated income and expenditure of Board.

10 (a.) Of the amount of its expenditure during the financial year ;  
 and

(b.) Of the amount of its income during the same year.

(2.) In this section the term "expenditure" includes any deficiency in the revenues of the Board during the preceding or any former  
 15 financial year, but does not include capital expenditure ; and the term "income" includes moneys in the hands of the Board at the commencement of the financial year, but does not include capital moneys.

47. In any year in which the amount of the estimated expenditure exceeds the amount of the estimated income the amount of the excess  
 20 may be raised by a uniform rate, which may be levied either on the annual capital or unimproved value of all rateable property within the district as the Board may determine.

Board may levy rate for excess of expenditure.

48. The Board may make and levy rates by resolution.

Rates, how made.

49. (1.) Before making and levying any rate the Board shall, by  
 25 resolution, determine whether the rate, when made and levied, shall be collected by the Board or by the local authorities of the constituent districts on behalf of the Board.

Collection of rates.

(2.) Any resolution under this section may be in like manner rescinded at any time before the collection of the rate.

30 50. (1.) If the Board determines that any rate shall be collected by the Board itself it shall cause a valuation roll and a rate-book to be provided, and, subject to the provisions of this Act, the provisions of the Rating Act, 1925, and the Valuation of Land Act, 1925, shall apply accordingly.

Collection of rates by Board.

35 (2.) For the purposes of this section the several valuation rolls and rate-books in force in the several constituent districts, taken together, or so much of those rolls and rate-books as relates to lands within the district, may be deemed to be the valuation roll and rate-book respectively of the district.

40 (3.) It shall be the duty of the Clerk of the local authority of each constituent district, whenever requested so to do by the Board, to supply to the Board a certified copy of the valuation roll and rate-book of the constituent district so far as it relates to lands within the district.

45 (4.) The cost of preparing such certified copy of the valuation roll and rate-book shall be paid by the Board.

51. (1.) When the Board has made and levied any general, separate, or special rate it may cause a copy of the resolution making and levying such rate to be forwarded to the local authority of the constituent district within which such rate has been made and levied.

Rates may be collected by local authority.

50 (2.) Every such local authority shall forthwith proceed to collect such rate in such manner as nearly as may be, and with such powers,

and the rate shall be payable by and recoverable from such persons and in such manner in every respect, as if such rate had been validly made and levied by such local authority.

(3.) All such rates shall be held by every such local authority as trustee for the Board, and shall be handed over to such Board as collected : 5

Provided that the local authority may deduct from the proceeds of any such rate an amount, not exceeding five per centum thereof, in respect of the cost of collecting the rate and as remuneration for the services of its officers, and the amount so deducted shall be paid into the general fund of the local authority. 10

Liability of local authority for failing to collect rates.

52. If the local authority of any constituent district, or any officer or servant of such local authority, fails to take steps required by law to be taken for the collection or recovery of any rate pursuant to section *fifty-one* hereof, the amount of such rate, or of any part thereof, uncollected or unrecovered owing to such failure shall be deemed to be a debt owing by the local authority to the Board, and may be recovered by action by the Board from that local authority accordingly. 15

Valuer-General to supply statements for rateable values.

53. The Valuer-General shall, at the request of the Board, and on payment of such fees as the Governor-General in Council may from time to time prescribe, supply to the Board a statement showing the total value of all the rateable property within each constituent district, and such other particulars as the Board may require for the purpose of making and levying any rate. 20

Board may borrow moneys by way of overdraft.

54. (1.) The Board may, in anticipation of its income, from time to time borrow moneys from its bankers by way of overdraft or from any corporation or person by way of temporary loan, but not exceeding at any time the amount of the estimated income for the current financial year less the amount of moneys in the hands of the Board at the commencement of the year (if any). 25 30

(2.) The Board may for the purpose of providing for the cost of surveys, experts, reports, and other preliminary works and the expenses of administration, before borrowing moneys by special loan pursuant to section ~~thirty-six~~ *forty-four* hereof, make and levy a uniform rate over the whole of the district. 35

Board may establish special funds.

55. (1.) The Board may appropriate in any year any moneys standing to the credit of the Water Fund Account and not appropriated for any special purpose, towards the creation of a special fund to provide for the following contingencies :—

(a.) Destruction of or injury to any of the property of the Board : 40

(b.) Depreciation in the value of any of the property of the Board :

(c.) Claims which may be made upon the Board by employees or other persons :

(d.) The lack or insufficiency of any sinking fund of any loan, or the depreciation of any of the investments thereof : 45

(e.) Any other losses or expenditure.

(2.) The Board may invest all moneys so appropriated, and the interest and profits accruing therefrom, in such securities as it from time to time determines, or in the Board's undertaking.

(3.) The Board may at any time and from time to time repay into the Water Fund Account the whole or any part of the moneys so appropriated or invested and the accumulations thereof, except in the 50

case of moneys set apart for the contingencies mentioned in paragraph (b) of subsection *one* hereof.

56. (1.) All moneys belonging to the Board shall be paid into such bank as the Board from time to time appoints to an account to be called the Water Fund Account.

Water Fund  
Account.

(2.) No moneys shall be drawn out of the bank except pursuant to a resolution of the Board, and all moneys shall be paid by the Board in cash or by cheque signed by any two of such of the members as the Board from time to time authorizes to sign cheques and countersigned by an officer appointed by the Board for the purpose.

57. (1.) The Board shall cause books to be provided and kept and true and regular accounts to be entered therein in the form, prescribed by regulations, of all sums received and paid by the Board, and of the several purposes for which such sums were received and paid.

Board to keep  
proper accounts.

(2.) Such books shall at all reasonable times be open for the inspection of any member of the Board any any debenture-holder or creditor of the Board.

58. (1.) The Board shall, not later than the month of April in every financial year, cause its accounts for the preceding financial year to be balanced and a true statement and account to be prepared, in the form prescribed by regulations,—

Balance-sheets and  
audit.

(a.) Of all contracts entered into during the financial year ;

(b.) Of the income and expenditure of the Board for that year ;  
and

(c.) Of all assets and liabilities of the Board at the end of that year.

(2.) All such accounts shall be audited by the Audit office, which for that purpose shall have and may exercise all such powers as it has under the Public Revenues Act, 1910, in respect of public moneys.

59. *Construction and Purchase of Waterworks.*

(1.) The Board may purchase, construct, and maintain any waterworks, and may enter into contracts with any person or body for the purchase, construction, or maintenance of any waterworks, for the supply of pure water for the use of the inhabitants of the district, or of any area or areas outside the district, or of the shipping in any harbour adjoining the district or such area or areas, and may keep the same in good repair, and may from time to time do all things necessary thereto ; and therein especially may do the following things :—

Board may  
construct  
waterworks.

(a.) May, subject to the provisions of this Act, take the water from any river, stream, lake, or pool ;

(b.) May break up or dig into the surface of any street, private street, road, or public place within or beyond the district ;

(c.) May prospect for water by boring, whether the land to be prospected is situated within or beyond the district ;

(d.) May erect waterworks and all other works authorized by this Act on, over, or under any land necessary for the construction thereof ;

(e.) May do all things necessary to secure the rights of and utilize any water intended or required to be used for the purpose of this Act ;

- (f.) May erect a pipe-line or pipe-lines along, on, over, or under any private land, road, or tramway or public reserve, and may alter the level of any road or tramway for such purpose ;
- (g.) May erect a pipe-line or pipe-lines across any river or stream, but so as not to impede the navigation on any navigable river, except as may be provided by a special Act. 5
- (h.) May alter the course or level of any river not navigable, or of any stream, watercourse, ditch, or drain ;
- (i.) May make and maintain drains or conduits on or under any land adjacent to and for the purpose of carrying water from off the works and undertakings of the Board ; 10
- (j.) May remove or alter any drain or sewer, or any pipes or other material, for the supply of water or gas belonging to any body or person within or beyond the limits of the operation of the Board ; 15
- (k.) May provide all such buildings, engines, stations, machinery, piers, wharves, roads, bridges, approaches, and other works in connection with the undertaking of the Board as may be thought necessary ;
- (l.) May enter into contracts with local authorities, persons, public and private companies, and others for the supply to them of water ; and such local authorities, public and private companies, and others may distribute such water to consumers either as agents of the Board or on their own behalf on such terms and conditions as may be agreed upon ; 20
- (m.) May sell water to any local authority or to consumers generally within the district, in bulk or otherwise, at such prices and on such terms and conditions as it deems fit ; 25
- (n.) May construct all roads, bridges, tramways, or other means of access and transit necessary for the construction and maintenance of the waterworks ; and 30
- (o.) Generally may do all acts necessary for constructing, maintaining, altering, repairing, and using the works and all the other undertakings of the Board.
- (2.) The powers granted by this Act in respect of the construction of waterworks shall be deemed to include the power of extending or enlarging any such waterworks. 35

(3.) All such waterworks shall be vested in the Corporation of the district.

Board may make survey or inspection.

60. (1.) Any surveyor, or engineer, or other officer appointed by the Board may from time to time enter upon any land within or without the district, with such assistants as he thinks fit, for the purpose of making any survey or inspection for the proposed work and undertakings of the Board ; and may fix, or set up thereon, survey pegs, marks, or poles, and dig or bore into such land so as to ascertain the nature of the soil and set out the lines of any works thereon. 40 45

(2.) In all cases notice shall be given to the owner or occupier of the land to be entered upon before such entry is made, and the surveyor, engineer, or other officer shall, when required to do so, produce to the owner or occupier of any land the written authority of the Secretary or Chairman of the Board to make the survey. 50



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(3.) In case any damage is done by the surveyor, engineer, or other officer in the exercise of the powers hereby conferred upon him the Board shall be liable to make good the same ; and the amount thereof shall be ascertained in the mode hereinafter provided as to the assess-  
5 ment of compensation for land taken or affected by the waterworks.

61. (1.) Subject to the provisions of this Act, the Board may exercise all or any of the powers conferred by this Act for the purchase or construction of any waterworks, and may enter upon or cause to be entered upon all lands which it is authorized to use or acquire under  
10 this Act for the purpose of making such surveys as may be necessary ; and, subject as aforesaid, may take and hold all the lands required for the waterworks, and may from time to time temporarily occupy and use such lands as may be necessary on either side of the waterworks during the construction thereof or for the purposes of the maintenance  
15 thereof.

Board may hold and occupy land and exercise incidental powers.

(2.) The Board shall be a local authority for all the purposes of the Public Works Act, 1908 ; and the waterworks constructed, purchased, or taken over, and all works which the Board is authorized by this Act to undertake, shall be deemed to be public works within the meaning  
20 of that Act.

62. Nothing in this Act shall prevent the Board from acquiring land outside the district and erecting buildings and waterworks thereon, or from erecting and maintaining waterworks outside the district, or from supplying water to consumers (whether local authori-  
25 ties or otherwise) outside the district, if it shall be thought fit so to do.

Powers of Board outside district.

63. (1.) Where it is found necessary for the construction of waterworks to alter any road, tramway, watercourse, sewer, or drain, or any other public work, or any water-pipe or gas-pipe for the supply of water or gas belonging to a local authority or private person or a  
30 company, such alterations shall be made in such a manner as to interfere as little as possible with the works so altered, and so as to afford to the public and to every person entitled to use the same an equal use and convenience as before such alteration.

Alteration of roads, &c., by Board.

(2.) Before commencing any such alteration the Board shall cause  
35 a plan thereof to be prepared and to be submitted to the local authority under whose control the work proposed to be altered is, or to the owner of such sewer, drain, water-pipe, or gas-pipe, or other work, as the case may be ; and if such local authority or owner objects to the proposed alteration the Board shall appoint a competent engineer to confer with  
40 such local authority or owner, and to agree with it or him as to the manner in which such alteration shall be made.

(3.) If no agreement can be come to between the parties the matter shall be referred to a Stipendiary Magistrate, who shall make such order therein as he thinks fit, and the alteration shall be made  
45 in accordance with such order.

64. Subject to the conditions hereinafter provided, the Board may temporarily occupy and use any lands for the purpose of constructing or repairing the waterworks, and may do the following things thereon :—

Temporary occupation and use of land for construction purposes.

- 50 (a.) May take therefrom stone, gravel, earth, and other material :  
(b.) May deposit thereon any such material :  
(c.) May form and use temporary roads thereon :

(d.) May manufacture bricks or other materials thereon :

(e.) May erect workshops, sheds, and other buildings of a temporary nature thereon.

Notice to be given to occupier of intention to occupy lands.

65. (1.) The engineer or other person having charge of the waterworks shall, before occupying or using any land under the provisions of the *last preceding* section, except in the case of accident to the waterworks requiring immediate repair, give to the owner or occupier thereof not less than twenty-one days' notice in writing, and shall state in such notice the use proposed to be made of such land. 5

(2.) The said owner or occupier may within ten days after receiving such notice, and after giving notice to the said engineer or other person of his intention so to do, apply to any Justice, who may thereupon summon such engineer or other person to appear before a Stipendiary Magistrate at a time and place to be named in the summons. 10

(3.) If it appears to the Magistrate that the use proposed to be made of the said land is unreasonable and unnecessary or that other neighbouring lands are more fitting to be used for the purpose proposed, the Magistrate may, by writing under his hand, order that the land in question shall not be occupied or used in the manner proposed. 15

(4.) If it appears to the Magistrate that the use proposed to be made of the said land is reasonable and necessary, he may in like manner order that the said land may be occupied and used, or material taken therefrom, in such manner and to such extent only and subject to such limitations and restrictions as he thinks fit ; and all persons concerned shall be bound by any such order. 20 25

Disposal of lands taken but not required.

66. If it is found that any land owned by the Board is not required for the purposes of the waterworks, the Board may, with the consent of the Minister, cause the same to be sold, or may cause such land to be leased for any term not exceeding fifty years, at such rent, and upon such terms and conditions as the Board thinks fit. *The proceeds from* 30  
*New.*

the sale of any land as aforesaid shall be paid into the sinking fund of the loan (if any), out of the proceeds of which such land was purchased, or applied to the purchase of other land or to some other capital purpose.

Compensation for lands taken or injuriously affected.

67. Every person having any estate or interest in any land taken under the authority of this Act or injuriously affected thereby, or suffering any damage from the exercise of any of the powers hereby given, shall be entitled to full compensation for the same from the Board. Such compensation may be claimed and shall be determined in the manner provided by the Public Works Act, 1908. 35 40

#### *By-laws.*

By-laws of Board.

68. Subject to the provisions of this Act, the Board may from time to time make by-laws in respect of any waterworks for the following purposes, that is to say :—

- (a.) Regulating the use and management of any waterworks so as to secure the safety of persons from injury by reason of such use : 45
- (b.) Protecting waterworks or other property belonging to the Board from damage or injury :
- (c.) The more effectually carrying out any of the objects of this Act. 50

69. (1.) By-laws under the *last preceding* section shall be made in the manner and subject to the conditions following, that is to say:— Method of making by-laws.

(a.) They shall be made by special order :

5            Provided that in publicly notifying the resolution making such order it shall not be necessary to set forth the whole of the proposed by-law if the object or purport of the same is stated, and if a copy of the proposed by-law is deposited in the office of the Board and is open to the inspection of the public during office hours for at least seven days immediately preceding the meeting at which the said resolution is to be confirmed :

(b.) They may be amended before the confirmation of the resolution making the same :

(c.) They shall have the common seal of the Board affixed thereto :

15 (d.) They shall come into force on a day to be fixed at the meeting held for the confirmation of the resolution, which day shall not be earlier than seven clear days after the date of that meeting.

(2.) A copy of any such by-laws sealed with the common seal of the Board shall be received as evidence of the same having been duly made as provided by this Act unless the contrary is proved.

(3.) The Board shall cause printed copies of all such by-laws to be kept at the office of the Board and to be sold at a reasonable charge to any person applying for the same.

25 (4.) Any by-laws made by the Board shall, where necessary, override by-laws made by any local authority relating to matters provided for in this Act.

70. (1.) Every person who commits a breach of any by-law made under this Act is liable to a fine of *twenty* pounds ; and where the breach is a continuing one, then to a further fine of *five* pounds for every day or part of a day during which such breach continues. Penalties for breach of by-laws.

(2.) The Board may, after conviction for the continuing breach of any by-law, apply to the Supreme Court for an injunction to restrain further continuance of such breach by the person so convicted.

35 (3.) The continued existence in a state contrary to any by-laws of any work or thing shall be deemed a continuing offence within the meaning of this section.

*Miscellaneous Provisions.*

71. (1.) Any contract which, if made between private persons, must be by deed shall, if made by the Board, be in writing under the seal of the Board. Contracts of Board, how made.

(2.) Any contract which, if made between private persons, must be in writing signed by the parties to be charged therewith may, if made by the Board, be in writing signed on behalf of the Board by some person duly authorized in that behalf.

(3.) Any contract which, if made between private persons, may be made verbally without writing may be similarly made by or on behalf of the Board.

72. No Judge, Magistrate, or Justice shall be deemed to be interested in any case in which he is acting judicially solely on the ground that he is a ratepayer. Judge or Magistrate being a ratepayer not thereby interested in proceedings.

Service of process  
on Board.

73. Any summons, writ, or other legal proceedings requiring to be served on the Board may be served by being left at the office of the Board or given personally to the Secretary thereof.

Trustee Act, 1908,  
to apply.

74. The provisions of section ninety-five of the Trustee Act, 1908, shall, both in respect of trusts heretofore and hereafter created, apply to all bonds, debentures, or other securities issued or to be issued by the Board, and forming the whole or any portion or portions of any loan which may be raised by the Board under the authority of any enactment.

Authorizing  
payment of certain  
expenses out of  
loan-moneys.

75. The Board may, out of any loan or other capital moneys, pay—

(a.) Any expense incurred by any local authority or individual in connection with and preliminary to the constitution of the Board, including particularly the expenses mentioned in sections *eight* and *forty-five* hereof :

*Struck out.*

(b.) The interest or interest and sinking fund of any loan during the period of the construction of any works for which the loan was raised.

*New.*

(bb.) The interest or interest and sinking fund of the loan for the first year, or, with the consent of the Minister, for any longer period, not exceeding in any case the period of construction of any works for which the loan was raised, or a period of three years, whichever is the less.

Penalties for causing  
damage to  
waterworks.

76. Every person who damages waterworks, appliances, or conveniences erected, constructed, or used under this Act shall be liable for the amount of such damage, to be recovered by any person authorized in that behalf by the Board in any Court of competent jurisdiction, and, if such damage is done wilfully, shall be liable in addition to a fine not exceeding *five hundred* pounds.

Offences with  
respect to  
waterworks.

77. (1.) Every person commits an offence who does any of the following things, namely :—

(a.) Wilfully injures or destroys any part of the waterworks ; or

(b.) Unlawfully draws or diverts any water belonging to the waterworks ; or

(c.) Wilfully or negligently allows any pipe or apparatus on his premises to be out of repair so that the water is wasted, or alters any meter, or does or suffers any act whereby his supply of water is improperly increased ; or

(d.) Obstructs any persons acting under the authority of the Board in doing anything which the Board is by this Act empowered to do ; or

(e.) Opens the ground so as to uncover any pipe belonging to the waterworks, or connects any pipe with such pipe, without having obtained the permission of some person acting under the authority of the Board in that behalf ; or

(f.) Connects any pipe with a pipe of the waterworks except in the presence of and pursuant to the direction of the officer appointed by the Board to superintend the same ; or

(g.) Connects with a pipe of the waterworks any pipe of a strength or material not approved by the Board.

(2.) Every person who commits an offence against this section shall be liable to a fine not exceeding *twenty* pounds for each such offence, and to a further sum equal to the cost incurred by the Board in repairing the injury done to any part of the waterworks by any such act.

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78. All fines recoverable under the provisions of this Act, or any by-laws or regulations made thereunder, may be recovered in a summary way, and when recovered shall be the property of the Board.

Recovery of fines.

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79. (1.) No action shall be commenced against the Board or any member thereof, or other person acting under the authority, or in the execution or intended execution, or in pursuance of this Act, for any alleged irregularity, or trespass, or nuisance, or negligence, or for any act or omission whatever, until the expiry of one month after notice in writing specifying the cause of action, the Court in which the action is intended to be commenced, and the name and residence of the plaintiff and of his solicitor or agent in the matter has been given by the plaintiff to the defendant.

Notice to be given of intention to commence actions.

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(2.) Every such action shall be commenced within six months next after the cause of action first arose, whether the cause of action is continuing or not.

20

80. The Governor-General may from time to time, by Order in Council, make regulations for effectually carrying out any of the provisions of this Act in respect whereof the Board is not by this Act empowered to make by-laws or regulations, and also providing for and regulating any matter in respect whereof any power, authority, or discretion is by this Act conferred on the Governor-General.

Regulations.

25

81. No person who is a consumer of water supplied by the Board or by a local authority, as the case may be, shall have any claim against the Board in the event of any failure of the supply of any such water through accident, strike, or labour disturbance, drought, or other unavoidable cause.

Protection of Board against claims by consumers.

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82. If any tree growing on any land causes or is likely to cause damage to any waterworks to which this Act relates, the Board may give notice to the owner or occupier of that land to remove the said tree or any part thereof, and if the owner or occupier fails to comply with the terms of such notice within the time specified therein (being not less than seven days) the Board or its agent may enter upon that land and remove the tree or any part thereof, but so that no unnecessary damage is done or incurred thereby.

Board may cause trees to be removed.

35

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*New.*

82A. (1.) The Board shall, before commencing any work under the authority of this Act or any other Act which would interfere with or affect or be likely to interfere with or affect any railway-work the property of His Majesty the King, give notice of its intention so to do to the Minister of Railways, together with a plan and section of the work showing its relation to the railway-work.

Where railways affected, consent of Minister required.

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(2.) No such work shall be commenced except with the approval in writing of the Minister of Railways, who may impose such conditions for the protection and safety of the railway-work as he thinks fit.