

UNDERGROUND WATER BILL

EXPLANATORY NOTE

1. In certain areas in New Zealand where underground water is to be found difficulty has arisen because—

- (a) Too many persons are exercising their common law right to tap the water, with the result that the supply is becoming exhausted and the available water is not being distributed in the manner most beneficial to the community as a whole; and
- (b) The water is being polluted by trade wastes and sewage.

2. The object of this Bill is to protect the proper interests of users of artesian water and safeguard their reasonable requirements.

3. At common law every owner and occupier of land has an absolute and unconditional right to abstract or intercept water which is percolating through the ground but is not in a defined channel. Any such water may be taken notwithstanding that the effect is to dry up a well on other land or to intercept water which otherwise would have reached a natural stream or the land of another person. It makes no difference whether the harm done is accidental or intentional. The position is different where the underground water runs in a defined and known channel, as in the case of those streams which for part of their course run beneath the ground. In these cases the rights of owners and occupiers of the land affected are restricted and protected by the rules which protect a natural stream upon the surface. Briefly, the position in these cases is that every owner and occupier of riparian land has a right to the undiminished flow of the water of a natural stream, whether it flows above or below the ground, subject only to the reasonable use of the water by other riparian owners and occupiers for the purposes of their riparian property.

4. The pollution of underground water is actionable at common law as a nuisance at the suit of any person injuriously affected by it. In practice, where there are various possible sources of pollution scattered over an area it is often difficult to establish that pollution at any point came from a particular source. Local authorities can make by-laws regulating drainage and sanitation, and thus do much to prevent the pollution of underground water in their areas. Difficulty arises, however, because an underground water area may include the districts of several local authorities, and they may not adopt a uniform policy in connection with matters which lead to pollution. Pollution can also be controlled to some extent under the Health Act 1920 and other Acts; but neither the common law nor the existing legislation provides for all the individual problems that arise in different underground water areas.

5. This Bill establishes machinery for controlling, regulating, limiting, or prohibiting the taking, use, or pollution of underground water, whether it flows in a defined channel or not; and to this end it provides—

- (a) For the constitution of underground water areas which may include the whole or part of the district or districts of one or more local authorities:
- (b) For the constitution of Underground Water Authorities in respect of the areas so constituted; and for the appointment and payment of staff to do the work of those authorities:
- (c) For the making of by-laws by Underground Water Authorities for various purposes connected with conserving the supply and preserving the purity of underground water:
- (d) For the payment of compensation where by-laws are made imposing restrictions on the use of land or of water under land:
- (e) For the apportionment of the cost of administering the provisions of the Bill in any underground water area:
- (f) For penalties for obstructing persons authorized to make inspections and for breaches of by-laws:
- (g) For Underground Water Authorities to have power to make investigations in connection with the extent of the underground water within their areas:
- (h) For Underground Water Authorities to have power, with the consent of the constituent local authorities, to construct works necessary for conserving, replenishing, purifying, or maintaining the purity of underground water in their areas.

6. An underground water area may be constituted by Order in Council made on the application of one or more of the local authorities for the districts which are wholly or partly within the area or which draw, or for which it is proposed to draw, supplies of underground water by pipe or water race from within the area. A proposal to have an area constituted an underground water area must be publicly notified and individual notices must be given to the local authorities concerned before application is made for the necessary Order in Council. The notices must give particulars of the proposed Underground Water Authority for the area. This may be a Catchment Board or local authority having other jurisdiction within the area or a committee specially constituted by Order in Council as the Underground Water Authority for the area.

7. There is provision for appeal to a Magistrate against—

- (a) Any proposal to constitute an underground water area:
 - (b) Any proposed apportionment of expenses incurred under the provisions of the Bill among the local authorities concerned:
 - (c) Any proposed by-law of an Underground Water Authority:
 - (d) Any refusal by an Underground Water Authority to grant a permit or dispensation from a by-law.
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Hon. Mr. Goosman

UNDERGROUND WATER

ANALYSIS

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A BILL INTITULED

AN ACT to provide for the control of the tapping, use, and pollution of underground water. **Title.**

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Underground Water Act 1953. **Short Title.**

Interpretation.

2. In this Act, unless the context otherwise requires,—

“ Bore ” means every device for or means of tapping water which is below the surface of the ground other than a natural spring or a natural watercourse; and includes a natural spring or a natural watercourse if anything has been done to it by any person which increases the amount of water from below the surface of the ground which is tapped by it: 5

1941, No. 12

“ Catchment Board ” means a Catchment Board constituted under the Soil Conservation and Rivers Control Act 1941: 10

“ Constituent local authority ”, in relation to any underground water area or proposed underground water area, means— 15

(a) The local authority for any district the whole or any part of which is within the area or proposed area; or

(b) The local authority for any district the whole or any part of which is supplied with underground water drawn by pipe or water race from within the area or proposed area; or 20

(c) Any local authority which has publicly notified its intention of drawing supplies of underground water by pipe or water race from within the area or proposed area for the supply of the whole or any part of its district: 25

“ Local authority ” means any City Council, Borough Council, County Council, Town Board, or Catchment Board, and any Road Board in a county where the Counties Act 1920 is suspended or is not in force: 30

See Reprint
of Statutes,
Vol. V, p. 180

“ Minister ” means the Minister of Works: 35

“ Publicly notify ”, in relation to any matter or thing done or intended to be done, means notify by a notice which conveys the general effect of the matter or thing and is published in some newspaper circulating in the district to which the matter or thing relates: 40

“Underground water” means all water which is below the surface of the ground whether it is flowing or not and, if it is flowing, whether it is in a defined channel or not; and includes all water which has been brought above the surface of the ground from below the surface of the ground by means of any bore:

“Underground water area” or “area” means an underground water area constituted under this Act:

“Underground Water Authority” means an Underground Water Authority constituted under this Act.

3. (1) Any local authority which proposes to present a petition to the Governor-General in respect of the constitution of any part or parts of New Zealand as an underground water area shall publicly notify its intention of so doing and shall give notice thereof in writing to the Minister and to every other constituent local authority. Any two or more local authorities may join in giving any such public notification and notice.

Proposal to constitute an underground water area and Underground Water Authority to be notified.

(2) Every such public notification and notice shall contain particulars of the proposals in connection with the constitution of the area including—

- (a) The names of the constituent local authorities;
- (b) The boundaries of the proposed area;
- (c) Whether it is proposed that the Underground Water Authority for the area shall be a local authority or an Underground Water Committee specially constituted for the purpose;
- (d) The number of members on any proposed Underground Water Committee; whether they are to represent any specified local authorities and persons; and the mode in which it is proposed that they shall be appointed or elected.

4. (1) Any constituent local authority or any two or more constituent local authorities may, within one month after the date on which notice of the particulars of the proposals in connection with the constitution of the area was given to the appellant or to any of the appellants as aforesaid, by a memorandum in writing filed in the office of the Magistrate’s Court nearest to

Right of local authorities and individuals to appeal against or object to proposals.

the office of the appellant, appeal to a Magistrate in respect of the inclusion of any district or land in the area, or in respect of all or any of the proposals, and may in the memorandum set out any alternative proposal or alternative proposals recommended by the appellant or appellants in place of any proposal or proposals of which notice has been given as aforesaid. 5

(2) A copy of every such memorandum of appeal shall, within the period allowed for appeal, be given by the appellant or appellants to every local authority which gave the notice to which the appeal relates and, where the memorandum sets out any alternative proposal or alternative proposals, to the Minister and to every other constituent local authority or local authority which is in any way affected by any such alternative proposal or proposals. 10 15

(3) Any person or body interested may, within one month after the last public notification of the proposals, by a memorandum in writing filed in the office of the Magistrate's Court nearest to the place where the person or body interested resides or carries on business, object to a Magistrate in respect of the inclusion of any district or land in the area, or in respect of all or any of the proposals. 20

(4) Where any such appeal or objection is made as aforesaid, a Magistrate shall inquire into the proposals so far as the appeal or objection relates to them; and for that purpose may hear such persons as he thinks fit and shall act as and be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1908; and, subject to the provisions of this Act, the provisions of that Act shall apply accordingly. The date for hearing any such appeal or objection shall not be earlier than one month after the last day for lodging the same. 25 30

(5) The Magistrate may hear any appeal or objection separately or may hear two or more of them which relate to the same proposals together, as he thinks fit; and where conflicting proposals or counter-proposals are made by any local authorities the Magistrate shall recommend which, if any, should be adopted. 35 40

(6) The Magistrate shall report his findings and recommendations to the Minister; and, on payment of the fee that would be payable if the proceedings were under the Magistrates' Courts Act 1947, may supply a

See Reprint
of Statutes, -
Vol. I, p. 1036

copy of his report to the applicant who or which made the appeal or objection and to every local authority affected thereby. Any such report may relate to a single appeal or objection or to two or more of them which
5 relate to all or any of the same proposals.

5. (1) The Governor-General may, by Order in Council made on the application of one or more of the constituent local authorities, constitute and declare any part or parts of New Zealand to be an underground
10 water area with such name and from such date as may be specified in the order; and may, by Order in Council made on the application of one or more of the constituent local authorities or of the Underground Water Authority, extend or reduce any underground
15 water area.

Constitution of
underground
water areas.

(2) The Governor-General may, by Order in Council made at the request of the Underground Water Authority, change the name of or abolish any underground water area.

20 (3) Every application under subsection *one* of this section shall be by petition under the seal of the local authority showing—

- (a) The names of the constituent local authorities:
- (b) The boundaries of the proposed area:
- 25 (c) Whether it is proposed that the Underground Water Authority for the area shall be a local authority or an Underground Water Committee specially constituted for the purpose:
- 30 (d) The number of members on any proposed Underground Water Committee; whether they are to represent any specified local authorities or persons; and the mode in which it is proposed that they shall be appointed or elected:
- 35 (e) The names of the local authorities which have been notified of the proposals and the dates on which they were so notified; and the names of the newspapers in which the proposals were publicly notified and the dates on which they were publicly notified in those newspapers:
- 40 (f) Whether the constituent local authorities have by resolution agreed to the proposals set out in the petition and (if not) in what respects

each of the local authorities has opposed the proposals or appealed to a Magistrate in respect of them:

(g) That all appeals and objections that have been made to a Magistrate have been disposed of by the Magistrate, and that the petition is in accordance with all findings and recommendations of the Magistrate. 5

(4) No petition under this section shall be presented— 10

(a) Less than two months after the date on which the giving of the public notification and notices required under section *three* of this Act was completed:

(b) Before every appeal and objection to a Magistrate in respect of all or any of the proposals has been disposed of by the Magistrate. 15

Constitution of
Underground
Water
Authorities.

6. (1) The Governor-General may from time to time, by Order in Council,—

(a) Constitute any local authority as the Underground Water Authority for any area from such date as may be specified in the Order: 20

(b) Constitute an Underground Water Committee as the Underground Water Authority for any area from such date as may be specified in the Order: 25

(c) Prescribe the membership of any Underground Water Committee, whether the members are to be appointed or elected, and whether they are to represent any specified local authorities or persons: 30

(d) Make all such regulations in connection with any Underground Water Committee as may be necessary or expedient for prescribing the manner in which members may be appointed or elected; the persons who may be appointed or elected and hold office as members; the persons who may vote at elections; and any matters relating to the holding and conduct of meetings. 35 40

(2) Every Underground Water Authority is hereby declared to be a local authority for the purposes of the Local Bodies' Finance Act 1921-22, the Local Authorities (Members' Contracts) Act 1934, and the Fees and Travelling Allowances Act 1951.

See Reprint
of Statutes,
Vol. V, p. 354
1934, No. 17
1951, No. 79

7. Every Underground Water Authority may from time to time appoint, employ, and remove such officers and servants as it deems necessary for the purposes of this Act, and may pay them such salaries or other remuneration as it thinks fit.

Officers and
servants of
Underground
Water
Authorities.

8. (1) Subject to the provisions of this Act and any other Act, any Underground Water Authority may, by resolution, make by-laws for all or any of the following purposes:

By-laws.

- (a) Controlling, regulating, limiting, or prohibiting the taking and use of underground water and the tapping of underground water:
- (b) Controlling, regulating, or limiting the locations, dimensions, and depths of bores; or prohibiting the making of bores within the whole or any specified part or parts of the underground water area:
- (c) Requiring the lining, sealing, capping, filling, restriction, or control of bores:
- (d) Controlling, regulating, limiting, or prohibiting the draining or taking of water which is above the surface of the ground if the draining or taking of the water may result in the tapping or prevent the replenishing of underground water which is within the area:
- (e) Controlling, regulating, or prohibiting in the whole or any specified part or parts of the underground water area any boring, drilling, dredging, or digging which would or might affect underground water which is within the area:
- (f) Providing for the inspection, cleaning, and repairing of bores:
- (g) Prescribing circumstances in which a permit is required before any bore may be made or altered or water taken or used therefrom; and fees and charges for the issue of permits:

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- (*h*) Prescribing the form of any permit or dispensation which may be issued or granted under this Act and all or any of the terms and conditions thereof:
- (*i*) Requiring any person claiming to hold a permit or dispensation under this Act to produce it for inspection: 5
- (*j*) Prohibiting or preventing uneconomic or wasteful methods of extraction and of utilization of underground water which is within the area: 10
- (*k*) Requiring persons who make or maintain bores to keep records and provide information in relation to those bores that would or might be of value to the Underground Water Authority in the proper exercise of its functions: 15
- (*l*) Requiring persons to permit free access to any records kept in accordance with any such requirement, or to any bore, of a person duly authorized by the Underground Water Authority for the purpose of— 20
- (*i*) Inspecting and taking copies of or extracts from the records:
- (*ii*) Inspecting the bore and the material excavated therefrom: 25
- (*iii*) Taking any specimen of any such material or of the water from the bore:
- (*m*) Specifying in respect of any purpose for which underground water is required the source of supply and limits of depth from which the water may be taken: 30
- (*n*) Protecting the purity of underground water within the area for domestic, farming, and industrial use:
- (*o*) Providing for any dispensation from observance of any by-law to be granted by the Underground Water Authority or by the holder for the time being of any specified office or by any specified person: 35

- (p) Controlling, regulating, limiting, or prohibiting, on lands anywhere within the underground water area or within any specified part or parts thereof, the placing or discharge on, onto, or into the ground of anything which is liable to affect detrimentally the purity of underground water in the area either directly or indirectly.
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- (2) Any such by-law may apply within the whole of the underground water area or within such part or parts thereof as may be specified in the by-law.
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- (3) Unless the Governor-General, by Order in Council, in any case otherwise provides, and subject to such conditions as he may impose, no by-law made under this Act shall affect—
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- (a) Any mining privilege under the Mining Act 1926: See Reprint of Statutes, Vol. V, p. 943
- (b) Any coal mining right under the Coal Mines Act 1925: Ibid., p. 843
- (c) Any licence under the Petroleum Act 1937: 1937, No. 27
- 20
- (d) Any coal mine within the meaning of the Coal Mines Act 1925 or any quarry within the meaning of the Quarries Act 1944: 1944, No. 13
- (e) Any bore sunk in the mining of or search for coal within the meaning of the Coal Mines Act 1925:
- 25
- (f) Any bore sunk in the mining of or search for gold, minerals (within the meaning of the Mining Act 1926), and any substance to which any of the provisions of that Act applies by reason of an Order in Council made under section three of that Act (as amended by section three of the Mining Amendment Act 1937): 1937, No. 19
- 30
- (g) Any bore sunk in the search for or recovery of petroleum products:
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- (h) Any bore sunk under the Geothermal Steam Act 1952: 1952, No. 5
- (i) Any bore sunk by the Mines Department or the Geological Survey Branch or Geophysical Survey Branch of the Department of Scientific and Industrial Research or any other bore sunk only for the purpose of obtaining geological or geophysical information:
- 40

(j) Any bore on any land if the water tapped thereby is used exclusively for, and is not in excess of, the drinking and domestic needs of the owners and occupiers of the land and the members of their households and animals on the land: 5

Provided that this paragraph shall not apply to any by-law made under paragraph (l) or paragraph (n) of subsection one of this section, or to any by-law made under paragraph (k) of that subsection which requires persons to keep records or provide information in relation to underground water reached and geologic strata reached when making or extending any bore which is more than thirty feet deep: 10 15

(k) Any right which any person may have under any other Act or any rule of law to restrict or prevent, or obtain damages in respect of, the taking, use, or pollution of underground water. 20

(4) No by-law made under the authority of this Act shall come into operation until after a copy of the by-law under the seal of the Underground Water Authority has been sent to, and the receipt thereof has been acknowledged by, the Minister. 25

(5) Upon receiving acknowledgment from the Minister of the receipt of a copy of any such by-law, the Underground Water Authority shall publicly notify the making of the by-law and the day on which it is to come into operation. 30

(6) The Underground Water Authority shall cause printed copies of all its by-laws to be kept at its office, and to be available for sale at a reasonable charge to any person applying therefor.

(7) Within six months after the date on which the receipt of a copy of any by-law has been acknowledged as aforesaid by the Minister, the Governor-General may disallow the by-law or any part thereof, and upon the disallowance being gazetted the by-law or part thereof so disallowed shall cease to have any force but the disallowance shall not affect the validity of anything theretofore done under the by-law or part thereof so disallowed. 35 40

(8) The production of any document purporting to be a copy of any by-law made under this Act, and to be sealed with the common seal of the Underground Water 45

Authority, shall, until the contrary is shown, be sufficient evidence of the by-law having been duly made, and that the by-law duly came into force on the day mentioned in that behalf in that copy of the by-law.

5 **9.** (1) Every Underground Water Authority proposing to make any by-law as aforesaid shall publicly notify its intention to do so and shall deposit a copy thereof for public inspection in the office of every constituent local authority.

Notice of proposed by-laws to be given.

10 (2) No by-law shall be made by any Underground Water Authority—

15 (a) Less than forty days after the last date on which the Underground Water Authority publicly notifies its intention to make the by-law in that form or deposits a copy thereof for public inspection in the office of any constituent local authority; or

20 (b) If any constituent local authority has requested the Underground Water Authority to modify the proposed by-law or refrain from making any such by-law.

25 **10.** (1) Any constituent local authority with which notice of any proposed by-law has been deposited as aforesaid may, at any time not later than forty days after the date of the deposit of the notice, request the Underground Water Authority in writing to modify the proposed by-law in any respect or to refrain from making any such by-law.

Local authority may request modification of any proposed by-law.

30 (2) Where any such request has been made to an Underground Water Authority and that Authority desires the proposed by-law to be made without modification, it shall apply to a Magistrate's Court to settle the substance, form, and application of the by-law and shall give notice that it has so applied to every local authority

35 which has made any such request in respect of the proposed by-law.

40 (3) The Underground Water Authority and every constituent local authority which has made any request to the Underground Water Authority in respect of the proposed by-law shall be entitled to be heard by the Magistrate's Court in connection with the application in respect of the by-law; and the Magistrate's Court may hear any other local authority or person in connection therewith.

(4) Where the substance, form, and application of any by-law is settled by a Magistrate's Court as aforesaid, the by-law shall be deemed to have been made by the Underground Water Authority in the form in which it is so settled, and shall be promulgated by the Underground Water Authority accordingly. 5

(5) No appeal in respect of any proposed by-law shall lie under any other Act.

Appeal against refusal to grant permit or dispensation.

11. (1) Any person may appeal to a Magistrate's Court against— 10

(a) Any refusal by any Underground Water Authority to grant him any permit to tap, take, or use underground water in any case where he is prevented from or restricted in tapping, taking, or using underground water by any by-law of that Authority: 15

(b) Any refusal by any Underground Water Authority to grant him any dispensation from observance of any by-law of that Authority.

(2) Written notice of any such appeal shall be given by the appellant to the Underground Water Authority. 20

(3) Where any person has appealed against any such refusal within three months after the date of the commencement of the by-law which makes it necessary for him to obtain the permit or dispensation, he may, pending the decision of the Court in respect of the appeal, do or refrain from doing anything which he was lawfully doing or refraining from doing at the date of the commencement of the by-law to the extent that he was then doing it or refraining from doing it. 25 30

(4) Notwithstanding anything to the contrary in any by-law, it shall be lawful for any Underground Water Authority to grant to any person a permit to use underground water or a dispensation from observance of any by-law of that Authority. 35

Appeals, etc., to Magistrates' Courts.

12. Where any appeal or application is made to a Magistrate's Court under section *ten*, section *eleven*, or section *fourteen* of this Act—

(a) The appeal or application shall be heard and determined in the Magistrate's Court before a Magistrate alone, and the Court, for the purposes of hearing and determining the appeal or application, shall have all the powers vested in it in its ordinary civil jurisdiction: 40

(b) The decision of the Court shall be final:

(c) The fees prescribed under the Magistrates' Courts Act 1947 shall be payable in the proceedings: 1947, No. 16

5 (d) The Magistrate's Court may award such costs as it deems just either in favour of or against the party making the appeal or application.

13. (1) Except as provided in this Act or any other Act, every person who suffers any damage in consequence of the exercise of any of the powers given by or under this Act shall be entitled to full compensation for the damage from the Underground Water Authority that exercises those powers. Compensation rights.

15 (2) Except as otherwise provided in this Act, every claim for compensation under this Act shall be made and determined in accordance with the Public Works Act 1928.

See Reprint
of Statutes,
Vol. VII, p. 622

(3) No person shall be entitled to compensation in respect of—

20 (a) Any prohibition of or restriction upon the use of underground water in a manner that is uneconomic or wasteful; or

25 (b) Any prohibition of or restriction upon the placing or discharge on, onto, or into the ground of anything which is liable to affect detrimentally the purity of underground water; or

30 (c) Any precaution that is intended for protecting the purity of underground water, or any requirement of the Underground Water Authority that is intended as a precaution against the unnecessary or wasteful use of underground water; or

35 (d) The refusal of a permit, or the loss of any right, to take or use underground water tapped by a bore which was not in existence when the area was constituted; or

40 (e) The exercise by the Underground Water Authority of any of the powers and authorities conferred by or under paragraphs (k) and (l) of subsection one of section eight of this Act.

(4) Where any bore was in existence when any underground water area was constituted, no person shall be entitled to compensation in respect of any prohibition

of or restriction upon the use of underground water from that bore in excess of the amount of underground water from that bore which was being used when the area was constituted or of the amount of underground water which could have been drawn from every installation which was being used to draw underground water from the bore when the area was constituted, whichever amount is the greater. 5

Financial
arrangements.

14. (1) Every constituent local authority, other than a Catchment Board, shall contribute equitably each year towards the expenses of the application of this Act within the area, and the amounts so contributed shall be paid to the Underground Water Authority. The amount to be contributed as aforesaid by each of the constituent local authorities shall be determined either by agreement between the constituent local authorities, or by a Magistrate's Court upon application made by any of those local authorities and served on all the other such local authorities. 10 15

(2) Where the contributions of the local authorities have to be determined by a Magistrate's Court as aforesaid, each of the constituent local authorities shall be entitled to be heard in the matter by the Court, and the Court shall by warrant fix and determine in what proportions the expenses shall be borne by the local authorities during the period specified in the warrant and how and when any payment is to be made to the Underground Water Authority. 20 25

(3) In determining the proportions in which the expenses of the application of this Act within any area shall be borne by the constituent local authorities, the Magistrate's Court shall have regard to all relevant circumstances including— 30

(a) The extent to which underground water within the area may possibly be polluted from within the district of each of the constituent local authorities during the period to which the warrant will relate; and 35

(b) The extent to which underground water from within the area is likely to be used within the district of each of the constituent local authorities during the period to which the warrant will relate. 40

(4) Every payment to be made by any constituent local authority as aforesaid shall be made as required by the agreement or warrant and, unless so made, may be recovered in any Court of competent jurisdiction by the Underground Water Authority as a debt due to it.

(5) Every contribution by any local authority under this section may be paid out of—

(a) The general fund of the local authority; or

10 (b) Any moneys (other than loan moneys) in any special or separate account that is available for water supply works or purposes; or

(c) Any special loan raised by the local authority for the purpose.

(6) Any local authority may from time to time borrow in accordance with the Local Bodies' Loans Act 1926 any sums that are necessary to enable it to meet its contributions under this Act other than contributions which it has certified under paragraph (a) of subsection *three* of section *twenty-three* of this Act that it will meet out of moneys other than loan moneys.

See Reprint
of Statutes,
Vol V, p. 360

15 20 **15.** (1) Every Underground Water Authority shall cause books of account to be provided and kept, and true and regular accounts to be entered therein, of all sums of money received and paid, and of the several purposes for which those sums of money have been received and paid.

Books of
account to be
kept.

25 (2) Any member of the Underground Water Authority, and any member of any constituent local authority, may at all reasonable times inspect the books and take copies of or extracts from them without fee.

30 (3) Every person having the custody of the books who does not, on the reasonable demand of any such member as aforesaid, permit him to inspect the books, or to take copies or extracts as aforesaid, commits an offence against this Act.

35 **16.** Every Underground Water Authority shall keep such accounts and keep them in such manner as may be prescribed by the Audit Office, but so always that—

Accounts to be
kept in
accordance with
requirements
of Audit Office.

40 (a) A General Account shall be kept, and credited with all moneys not required by this Act to be carried to any other account, and debited

with expenditure that is not required by or under this or any other Act to be charged, or that is not otherwise properly chargeable, against any other account; and

(b) Separate accounts shall be kept and credited with all moneys raised or levied for, or appropriated or allocated to, or held in trust or received for, any special purpose, and debited with expenditure properly chargeable against those accounts.

(2) The decision of the Audit Office as to whether or not any expenditure is properly chargeable against any such account shall be final.

Transfers from
General
Account to
meet
deficiencies.

17. (1) If the balance in any of the separate accounts is at any time insufficient to meet the lawful charges thereon, the Underground Water Authority may transfer such sums as are necessary from the General Account to meet the same, and may at any time repay any sum so transferred out of any excess in the receipts over the liabilities of that separate account.

(2) It shall not be lawful to make any transfer from any one to any other of the separate accounts.

Yearly
balance sheet
and statements.

18. (1) On or before the *fifteenth* day of April in each year every Underground Water Authority shall cause to be prepared and sent to the Audit Office a yearly balance sheet, being an abstract of the accounts above mentioned during the financial year ended on the *thirty-first* day of March then last past, together with a statement of the whole assets and liabilities of the Authority at the end of that year.

See Reprint
of Statutes,
Vol. VII, p. 10

(2) The yearly balance sheet and statements shall be audited by the Audit Office, which for that purpose shall have all such powers as it has under the Public Revenues Act 1926 in respect of public moneys and the audit of local authorities' accounts.

(3) A copy of the yearly balance sheet and statements shall when duly audited be submitted to the Minister and every constituent local authority, accompanied by a report as to the operations of the Underground Water Authority for the year.

Moneys to be
paid into bank.

19. (1) All moneys belonging to any Underground Water Authority amounting to five pounds and upwards shall within seven days after they have come to the hand of the proper officer of the Authority be paid into
5 the account of the Authority at such bank as the Authority from time to time appoints.

(2) No moneys shall be withdrawn from the bank except by authority of the Underground Water Authority and by cheque signed by the Treasurer and countersigned
10 by a member of the Authority.

Imprest
accounts.

20. (1) Every Underground Water Authority may, pursuant to a resolution in that behalf, establish an imprest account at such bank as the Authority from
time to time appoints.

15 (2) Every imprest account may be held in the name or names of and be operated on by such person or persons (being members or responsible officers of the Underground Water Authority) as may be appointed in that behalf by the Underground Water Authority:

20 Provided that no such account shall be held in the name of or operated on by one person only without the prior written approval of the Audit Office, and any such approval may be subject to such conditions as the Audit Office thinks fit.

25 (3) The Underground Water Authority shall from time to time by resolution fix the maximum amount that may be held at any time in the imprest account, not exceeding one hundred pounds in any case where
30 the imprest account may be operated on by one person acting alone, and not exceeding such amount as the Audit Office may approve in any other case.

(4) Moneys in the imprest account shall be available only for the payment of wages, travelling allowances and expenses, and of emergency expenditure. A state-
35 ment of all payments made from the imprest account shall be submitted to the Underground Water Authority for approval at its first ordinary meeting thereafter. The payment of moneys out of the imprest account for any purpose not hereby authorized shall be deemed to
40 be the misappropriation of the funds of the Authority.

(5) The provisions of section *nineteen* of this Act shall be read subject to the provisions of this section.

Travelling allowances of members of Underground Water Authorities. 1951, No. 79

Power to enter and inspect.

Power to make investigations and construct works.

21. Every Underground Water Authority may pay to its members travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.

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22. Any person authorized by an Underground Water Authority may at any reasonable time or times, upon producing evidence that he has been authorized as aforesaid, enter upon any land or premises for the purpose of making an inspection to determine whether there has been any breach of any by-law made under this Act.

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23. (1) Any Underground Water Authority may make such investigations above and below the ground as will enable or assist it to ascertain the extent of the underground water that is from time to time available within its area or any part thereof.

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(2) Every constituent local authority which has any powers in relation to waterworks in or affecting any underground water area may delegate all or any of those powers so far as they apply to underground water to the Underground Water Authority for the area, and the Underground Water Authority may exercise all powers so delegated on behalf of the local authority which made the delegation.

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(3) Any Underground Water Authority, with the consent of the constituent local authorities, may construct works which it considers necessary for conserving, replenishing, or purifying the underground water in its area or any part thereof or maintaining the purity of that underground water:

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Provided that the Underground Water Authority shall not construct any such work unless—

(a) Every constituent local authority which will have to contribute towards the cost of the work has certified in writing, before the commencement of the work, that it will meet its contribution towards the work out of moneys other than loan moneys; or

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(b) The Underground Water Authority has, before the commencement of the work, obtained the sanction of the Local Government Loans Board, which, with respect to any application for its sanction, shall have the same powers of

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investigation as are conferred on it in respect of applications made to it under the Local Government Loans Board Act 1926.

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of Statutes,
Vol. V, p. 415

5 **24.** (1) Every person commits an offence against this Act who—

Offences.

(a) Wilfully hinders or obstructs any authorized person in the exercise of any powers conferred on that person by or under this Act; or

10 (b) Fails to comply with or acts in contravention of any by-law made under this Act.

(2) Every person who commits an offence against this Act shall be liable on summary conviction—

15 (a) For a first offence, to a fine not exceeding twenty pounds:

(b) For a second or any subsequent offence, to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months or to both; and in the case of a continuing offence to a further fine not exceeding five pounds for each day or part of a day on which the offence continues.

(3) Where any person has failed to comply with or acted in contravention of any by-law made under this Act and has in consequence been convicted of an offence against this Act, the Underground Water Authority shall thereafter have power to execute any works and do any things which are in the opinion of that Authority necessary in order to prevent or remove any damage which may result or may have resulted from the failure or action of the offender, and the amount of any expenses reasonably incurred by the Underground Water Authority in so doing shall be recoverable as a debt due to that Authority by the offender.

35 **25.** Every Underground Water Authority shall supply to the Soil Conservation and Rivers Control Council not later than the thirtieth day of June in each year a report analysing all data received by the Authority under any by-law made under paragraph (k) of subsection *one* of section *eight* of this Act in respect of
40 the year which ended on the thirty-first day of March immediately preceding that date.

Annual report
to Soil
Conservation
and Rivers
Control Council.