

Year and Number of Act.	Short Title of Act.	How Affected.
1 Geo. V. No. 36	<i>St. Marys, Avoca, and Cornwall Water Act, 1910.</i>	
59 Vict. No. 55	<i>Scottsdale Water Act, 1895.</i>	1. Sections 29-32 are repealed. 2. Parts VI and VII of the <i>Waterworks Clauses Act 1952</i> are incorporated.
5 Geo. V. No. 19	<i>Scottsdale Water Amendment Act, 1914.</i>	Sections 7-11 are repealed.
5 Geo. V. No. 26	<i>Sorell Water Act.</i>	
4 Geo. VI. No. 27	<i>Stanley Water Act, 1940.</i>	1. Subsection (4) of section 4 is repealed. 2. The <i>Waterworks Clauses Act 1952</i> so far as it is not inconsistent, is incorporated.
3 Edw. VII. No. 43	<i>Swansea Water Act, 1903.</i>	1. Sections 10-28 are repealed. 2. Part X. is repealed. 3. Parts II. and VII. of the <i>Waterworks Clauses Act 1952</i> are incorporated.
5 Edw. VII. No. 47	<i>Ulverstone Water Act, 1905.</i>	1. Sections 8-29 are repealed. 2. Part IX. is repealed. 3. Parts II. and VII. of the <i>Waterworks Clauses Act 1952</i> are incorporated.
62 Vict. No. 64	<i>Westbury and Hagley Water Act, 1898.</i>	1. Sections 9-28 are repealed. 2. Sections 35-39 are repealed. 3. Sections 43-46 are repealed. 4. Parts II., VI., and VII. of the <i>Waterworks Clauses Act 1952</i> are incorporated.
3 Geo. V. No. 4	<i>Wynyard Water Act, 1912.</i>	Parts VI. and VII. of the <i>Waterworks Clauses Act 1952</i> are incorporated.
18 Geo. V. No. 30	<i>Wynyard Water Amendment Act, 1927.</i>	1. Sections 11-15 are repealed. 2. Sections 23-26 are repealed.

WATERWORKS CLAUSES.

No. 86 of 1952.

AN ACT to consolidate in one Act certain Provisions usually contained in Acts authorizing the Making of Waterworks. [19 December, 1952.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly in Parliament assembled, as follows:—

PART I.

PRELIMINARY.

1 This Act may be cited as the *Waterworks Clauses Act* Short title. 1952.

Interpre-
tation.

Cf. 10 & 11
Vict. c. 17,
ss. 2, 3.

2 In this Act, unless the contrary intention appears—

“lake” includes swamp, pond, dam, and well;

“prescribed” means prescribed by by-law;

“source of supply” means any place from which the undertakers are by the special Act authorised to take water for the purposes of the special Act;

“stream” includes spring, brook, river, and other running water;

“street” includes any highway, other than a highway through a building, and any public square, court, or place within the limits of the special Act;

“take”, used in relation to water, includes divert and hold back;

“the Board” means the Water Sewerage and Drainage Board;

“the limits of the special Act”, if not specified in the special Act, means the water district and the vicinity of the source of the supply, and any lands required for bringing water from the source of supply into the water district;

“the special Act” means any Act authorising the construction of waterworks with which this Act or any part thereof is incorporated, except in the case of the *Local Government Act 1906*, of which “the special Act” means Part XV.;

“the undertakers” means the persons authorised by the special Act to construct the waterworks;

“the undertaking” means the waterworks, and all works, engines, buildings, pipes, and other accessories connected therewith authorised by the special Act to be constructed, laid, installed, or maintained by the undertakers for the purposes of the special Act;

“water district” means the water district defined by or under the special Act.

Incorporation
with special
Act.

10 & 11 Vict.,
c. 17, s. 1.

3 This Act shall extend to all undertakings authorised by any Act which declares that this Act is incorporated therewith, or which is declared by some Act to have this Act incorporated therewith; and all the sections of this Act, save so far as they are expressly varied or excepted by any such Act, shall apply to the undertaking thereby authorised, so far as they are applicable to that undertaking, and shall, with the sections of every other Act which is incorporated therewith, form part of any such Act, and shall be construed therewith as forming one Act.

PART II.

CONSTRUCTION OF WATERWORKS.

Acquisition
and disposal
of property.

Cf. 11 & 12
Geo. VI. No.
88, s. 4.

4 The undertakers may, upon such terms and conditions as they consider desirable, purchase, take on lease, hire, or otherwise acquire any land, goods, interest, or right required by them for the purposes of the special Act and may dispose of them, if no longer required, to any person and in any manner.

5 The undertakers may purchase or take in accordance with the provisions of the *Public Authorities' Land Acquisition Act 1949* any lands or any estate or interest therein which they may require for the purposes of the special Act.

Compulsory acquisition of land.

Ibid., s. 5; Cf. 10 & 11 Vict., c. 17, s. 6.

6 Where any estate or interest in land is taken under section five and the compensation payable to any person in respect thereof is determined as in cases of disputed compensation to be an amount the undertakers think not desirable to pay, they may, notwithstanding that the time limited in subsection (2) of section fifteen of the *Public Authorities' Land Acquisition Act 1949* has expired, take action otherwise in accordance with and subject to that section.

If compensation is excessive, undertakers may withdraw.

11 & 12 Geo. VI. No. 88, s. 6;

4 & 5 Geo. VI. No. 91, s. 315.

7 The undertakers may—

- (a) sink such wells or shafts, construct, maintain, lay down, alter, and discontinue such reservoirs, embankments, cisterns, tanks, aqueducts, drains, cuts, sluices, pipes, conduits, mains, culverts, engines, and other works, appliances, and buildings upon the lands, streams, and lakes authorised to be taken by them, as may be necessary to provide a supply of water for any of the purposes of the special Act;
- (b) for the purpose of constructing, inspecting, maintaining, altering, relaying, or discontinuing any such works, appliances, or buildings, enter upon any lake, or stream, or the beds and banks thereof, and upon any lands, with vehicles and workmen and there take levels and set out works as the undertakers think necessary;
- (c) dig, cut, trench, and break up the soil of any such land, and remove all earth, stones, trees, and other things dug or obtained out of the same, and use such materials in the construction or maintenance of any of the works authorised by the special Act; and
- (d) for the purpose of exercising any of the powers conferred by this section, enter into such contracts as the undertakers may deem advisable.

Power to enter on land and construct works, &c.

10 & 11 Vict., c. 17, s. 12;

11 & 12 Geo. VI. No. 88, s. 8.

8—(1) For the purposes of the special Act the undertakers may, subject to the provisions of this Act, take, or appropriate, water from the source of supply thereby appointed, notwithstanding anything contained in Part XIV. of the *Hydro-Electric Commission Act 1944*.

Water rights.

Cf. 11 & 12

Geo. VI.,

No. 88, s. 5;

8 & 9 Geo.

VI., c. 42, 3rd

sch., s. 10.

(2) The undertakers may purchase or take on lease any water rights required for the purposes of the special Act, and, where such rights are necessary to enable the undertakers to take all the water required for those purposes from the source of supply, the undertakers may take them in accordance with the provisions of the *Public Authorities' Land Acquisition Act 1949* as if such rights were incorporeal hereditaments requiring entry for their enjoyment.

(3) The undertakers shall not be bound to acquire water rights as provided in subsection (2) of this section, but may—

- (a) use the procedure provided in section seventeen; or
- (b) send down compensation water, if so decreed by the Board under the *Water, Sewerage, and Drainage Board Act 1944*.

(4) While the undertakers send down compensation water in accordance with the decree of the Board, they shall not be liable for any diminution of the flow of the stream caused by their undertaking.

(5) Where compensation water has been so decreed, the undertakers shall before taking any water construct, at the point at which it is decreed that the compensation water shall be let down the stream bed, a gauge approved by the Board to gauge the quantity of water let down, and except as provided in the decree they shall not take any water while the flow of water through or over the gauge is less than the quantity decreed.

(6) If the undertakers—

- (a) fail to construct or to maintain in good order a gauge as provided in subsection (5), or refuse to allow any person interested to inspect and examine the gauge or any records made thereby or kept by them in connection therewith or to take copies of any such records; or
- (b) take any water from the stream contrary to the provisions of subsection (5), or fail to comply with the decree with respect to the letting down of water,

they shall, without prejudice to their civil liability, if any, to a person aggrieved, be liable to a penalty of fifty pounds in respect of each day on which the offence has been committed or has continued.

Power to break up streets, open drains, and lay pipes.

10 & 11 Vict., c. 17, s. 28;
11 & 12 Geo. VI. No. 88, s. 9.

9 The undertakers, under such superintendence as is specified in section eleven, may open and break up the soil and pavement of any street or bridge within the limits of the special Act, and may open and break up any sewers, drains, or tunnels within or under such streets and bridges, and lay down and place within those limits pipes, conduits, service pipes, and other works and engines, and repair, alter, or remove them, and for those purposes remove and use all earth and materials in and under such streets and bridges, and do all other acts which the undertakers shall deem necessary for the purposes of the special Act.

Notice to be given before breaking up streets or opening drains.

10 & 11 Vict., c. 17, s. 30.

10 Before the undertakers open or break up any street, bridge, sewer, drain, or tunnel, they shall give to the persons under whose control or management those things may be, or to their clerk, surveyor, or other officer notice in writing of their intention to open or break them up, not less than seven clear days before beginning the work, except in cases of emergency arising from defects in any of the pipes or other works, and then so soon as is possible after the beginning of the work or the necessity for it has arisen.

11—(1) No street, bridge, sewer, drain, or tunnel shall, except in the cases of emergency mentioned in section ten, be opened or broken up except under the superintendence of the persons having the control or management thereof, or of their officer, and according to a plan approved by those persons or their officer, or in case of any difference respecting the plan, then according to a plan determined by a police magistrate or two other justices.

Streets, &c., not to be broken up except under superintendence of persons controlling them.

Ibid., s. 31.

(2) The police magistrate or justices may, on the application of the persons having the control or management of any such sewer or drain, or their officer, require the undertakers to make such temporary or other works as he or they may think necessary for guarding against any interruption of the drainage during the execution of any works which interfere with any such sewer or drain.

(3) If the persons having such control or management, and their officer, fail to attend at the time fixed for the opening of any such street, bridge, sewer, drain, or tunnel, after having had notice in accordance with section ten or do not propose any plan for the breaking up or opening, or refuse or neglect to superintend the operation, the undertakers may perform the work specified in their notice without the superintendence of any such persons or their officer.

12 Whenever the undertakers open or break up the road or pavement of any street or bridge, or any sewer, drain, or tunnel, under the authority of this Act, they shall, with all convenient speed, complete the work for which the same was broken up, and fill in the ground, and reinstate and make good the road or pavement, or the sewer, drain, or tunnel so opened or broken up, and carry away the rubbish occasioned thereby, and shall, at all times while any such road or pavement is so opened or broken up, cause the same to be fenced and guarded, and a light sufficient for the warning of passengers to be set up and kept against the same every night, and shall, after replacing or making good the road or pavement which has been so broken up, keep it in good repair for three months thereafter, and such further time, if any, not being more than twelve months in the whole, as the soil so broken up may continue to subside.

Streets, &c., broken up to be reinstated without delay.
10 & 11 Vict., c. 17, s. 32;
11 & 12 Geo. VI, No. 88, s. 10.

13—(1) If the undertakers open or break up any street or bridge, or any sewer, drain, or tunnel, without giving notice under section ten, or in a manner different from that which has been approved of or determined under section eleven, or without making temporary or other works under section eleven when so required, except in the cases in which the undertakers are authorised to perform such works without any superintendence or notice, or, if the undertakers make any unnecessary delay in completing any such work, or in filling in the ground, or reinstating and making good the road or pavement, or the sewer, drain, or tunnel, so opened or broken up, or in carrying away the rubbish occasioned thereby, or if they neglect to cause the place where such road or pavement has been broken up to be fenced, guarded, and lighted,

Penalty for delay in reinstating streets, &c.
10 & 11 Vict., c. 17, s. 33.

or neglect to keep the road or pavement in repair for the space of three months next after the same is made good, or such further time as is mentioned in section twelve, they shall forfeit to the person having the control or management of the street, bridge, sewer, drain, or tunnel in respect of which such default is made a sum not exceeding five pounds for every such offence, and an additional sum of five pounds for each day during which any such delay continues after they have received notice thereof.

(2) Nothing in this section shall take away any other right of action, except from persons who have taken action for the penalty hereby provided, and no persons who have brought action otherwise for any such default, may recover a penalty under this section for the same default.

In case of delay, persons having control of streets, &c., may reinstate them.

Ibid., s. 34.

14 If any such delay or omission takes place, the persons having the control or management of the street, bridge, sewer, drain, or tunnel in respect of which the delay or omission takes place may cause the works so delayed or omitted to be executed, and the expense of executing them shall be repaid to those persons by the undertakers.

Undertakers to do as little damage as possible.

11 & 12 Geo. VI. No. 88, s. 11;
Cf. 10 & 11 Vict., c. 17, ss. 12, 28.

15 In the exercise of the powers conferred upon them by this Act, the undertakers shall do as little damage as may be, and, so far as is practicable, shall cause all land used in or in connection with the erection or construction of any works to be restored to its original character, and shall provide other watering places, drains, and channels for the use of adjoining lands in place of any such watering-places, drains, or channels as are taken away or interrupted by the undertakers.

Compensation for injurious affection of land.

11 & 12 Geo. VI. No. 88, s. 12.

16—(1) Except as provided in section seventeen the undertakers shall make compensation to all persons having a lawful interest in any land, other than land purchased by the undertakers, in or upon which any works connected with the undertaking may hereafter be constructed or done, or which may be injuriously affected by the construction and maintenance of the undertaking or otherwise by the exercise by the undertakers of any powers conferred upon them by this Act, for all damage sustained by reason of the exercise, as to such land, of the powers so vested in the undertakers.

(2) Any person claiming compensation under this section shall prefer his claim by notice in writing, specifying—

- (a) the place of abode of the claimant;
- (b) the particular act occasioning the damage for which compensation is claimed;
- (c) the nature and amount of such damage; and
- (d) the nature of the title or interest of such claimant in or to the land in respect of which the claim is referred.

(3) If the undertakers, by notice served upon any person, require him to make a claim for compensation for any damage occasioned by the exercise, prior to such service, of any of the powers conferred on the undertakers by this Act, that person shall not be entitled to compensation for any damage sustained by reason of the exercise of any such powers prior to the service of such notice unless he prefers his claim, in accordance with this section, within six months after the service on him of such notice.

(4) If the claimant and the undertakers do not agree as to the amount of the compensation, the claim for compensation shall be determined as a disputed claim for compensation under the *Public Authorities' Land Acquisition Act 1949*.

17—(1) Except where compensation water has been decreed by the Board under the *Water, Sewerage and Drainage Board Act 1944*, the undertakers may only take such water from their source of supply as they might lawfully take by virtue of the ownership of land, including water rights acquired under section eight, and shall if they require to take more water cause notice of the place at which the taking is to be done and the maximum daily quantity to be taken, together with some later date, on which the taking will begin, to be given in the *Gazette* and advertised in a daily newspaper circulating in the locality affected.

Compensation
for taking
water.

(2) From and after the date so notified every lower riparian right or right of a similar kind shall be subject to the exercise of the undertakers' rights as notified.

(3) Rights to take a greater daily quantity of water may be acquired by the undertakers by similar notices, and from the date so notified every lower riparian right or right of a similar kind shall be subject to the increased exercise of the undertakers' rights as notified.

(4) Every person whose land is injuriously affected by the operation of subsections (2) and (3) of this section shall be entitled to compensation under the *Public Authorities' Land Acquisition Act 1949*.

(5) Except as allowed in subsection (2) of section twenty-two of the *Public Authorities' Land Acquisition Act 1949* a claim for compensation shall be made within one hundred and twenty days and not as provided in paragraph (c) of subsection (1) of that section.

(6) In lieu of paying compensation, the undertakers may agree, with the consent of the Board, with the person to be compensated that he shall have—

- (a) a supply of water upon such terms and conditions as may be agreed upon; or
- (b) an exemption or rebate of water rates in respect of his land in perpetuity, for life, for life and twenty-one years thereafter, or for a term of years.

(7) The Hydro-Electric Commission shall not be entitled to any compensation under this section in respect of the rights vested in it by subsection (1) of section sixty-five of the *Hydro-Electric Commission Act 1944*, but this subsection

shall not deprive it of such compensation as it might otherwise have obtained in respect of a riparian tenement held by it or compensation in respect of water rights purchased or taken by it.

PART III.

SUPPLY OF WATER.

Constant supply of water to be kept for domestic use of all inhabitants entitled to demand a supply.
10 & 11 Vict., c. 17 s. 35 (part).

18—(1) The undertakers shall provide and keep in the pipes laid down by them a supply of pure and wholesome water sufficient for the domestic use of all the inhabitants of the water district who are entitled to demand a supply and are willing to pay the proper rates and charges for it.

(2) Except when it is necessary to turn off the water for the purposes of the alteration or maintenance of the undertaking, the supply shall be constantly laid on at such a pressure as will make the water reach the top storeys of the highest houses in the water district, unless it is provided in the special Act that the water supplied by the undertakers need not constantly be laid on at such pressure.

Persons entitled to demand supply.
Cf. 25 Geo. V. No. 47, s. 43; 11 & 12 Geo. VI. No. 88, s. 13.

19 Every occupier for domestic purposes of any land within a water district, a boundary of which is within one hundred feet by the shortest practicable route of any main or other pipe laid down by the undertakers shall be entitled, on demand, to a supply of water for domestic purposes.

Power to limit domestic supply.

20 The undertakers' liability under section nineteen may be limited by by-law under this Act or the special Act providing that the undertakers may refuse to supply water for—

- (a) gardens generally, or gardens of any particular kind;
- (b) domestic machinery, but not flushing systems for water closets, unless the Director of Public Health has first approved;
- (c) domestic industries; and
- (d) swimming baths, fish ponds, fountains, and artificial streams and pools.

Rights to have mains extended.
10 & 11 Vict., c. 17, s. 35 (part).

21—(1) If any owners or occupiers of houses in any part of the water district request the undertakers to provide a supply of water and if the aggregate minimum amount of water rates payable by him or them annually at the rates then current would be not less than a tenth of the estimated capital cost of providing the supply, the undertakers shall provide the supply requested.

(2) To bring water to a part of a water district for the purposes of this section the undertakers shall lay down the necessary pipes to within one hundred feet of every piece of land in that part, unless the owner or occupier requiring the supply requires only a pipe within some greater distance.

(3) No such request shall be binding on the undertakers unless the owners and occupiers severally execute an agreement binding themselves to take a supply of water for three successive years at least.

22—(1) If for ninety days after demand in writing made by the undertakers, and tender made of an agreement, signed by the requisite number of owners or occupiers, to take and pay for a supply of water for three years or more, the undertakers refuse or neglect to lay down the necessary pipes, and to provide a supply of water as provided in section twenty-one or in the special Act they shall forfeit to each of such owners and occupiers the sum of two pounds for every day during which they refuse or neglect to lay down such pipes or to provide such a supply of water.

Penalty for neglect to extend mains. *Ibid.*, s. 36.

(2) The undertakers shall not be liable to any penalty for not laying down pipes if they are unable to obtain the necessary labour or materials, or for not supplying water if the want of supply arises from frost, unusual drought, or other unavoidable cause or accident.

23 At any port within the water district the undertakers may supply water to ships in the port upon terms to be agreed upon between the undertakers and the marine board or harbour trust within the jurisdiction of which the port lies, or, in default of agreement, as may be determined by the Board, and may lay down, maintain, and operate works necessary for the purpose.

Supply of water to ships.

24—(1) In all their pipes to which any fire-plug is fixed the undertakers shall provide and keep constantly laid on, unless prevented by frost, unusual drought, or other unavoidable accident, or during necessary repairs, a sufficient supply of water for the following purposes:—

Supply of water to be kept for cleansing sewers, drains, &c., and for other public purposes.

- (a) For cleansing the sewers and drains;
- (b) For cleansing and watering the streets; and
- (c) For supplying any public pumps, baths, or wash-houses established or maintained by the council for the use of the inhabitants.

10 & 11 Vict., c. 17, s. 37.

(2) Water supplied for the purposes of subsection (1) of this section shall be provided at such rates, in such quantities, and upon such terms and conditions, as may be agreed upon between the council and the undertakers, or, in case of disagreement, as may be settled by the Board.

25—(1) The undertakers may furnish to any person a supply of water for such purposes other than domestic purposes as they may determine, and at such charges and upon such terms and conditions as may be agreed upon between the undertakers and such person or as may be prescribed on the recommendation of the Board.

Supply of water for purposes other than domestic purposes.

11 & 12 Geo. VI. No. 88, s. 14.

(2) The charge for supplying water under subsection (1) of this section shall be uniform to all persons in the same circumstances and requiring the same extent of supply.

(3) The undertakers may, on the request of the council, and subject to the provisions of subsection (2) of section twenty-four, erect in any street in the water district troughs for supplying animals with water.

Supply of water to Government departments and to persons outside the water district.

Cf. *ibid.*, s. 15, and 6 Edw. VII. No. 31, s. 214 (2).

26—(1) The undertakers may enter into an agreement with any Minister or other person acting for or on behalf of the Commonwealth or the State for the supply of water to any land belonging to, or occupied by or on behalf of, Her Majesty, (whether in right of the Commonwealth or of the State), or, subject to the prior licence of the Board, with the owner or occupier of any land situated outside the water district for the supply of water to that land.

(2) Any water supplied in pursuance of any agreement under subsection (1) shall be supplied upon such terms—

(a) in cases for which the Board's licence is necessary, as are approved by the Board; and

(b) in other cases, as may be mutually agreed upon,

and, in the case of the supply of water to land situated outside the water district, the undertakers shall have the same powers of opening and breaking up streets, and of laying down pipes for supplying that land with water, as if that land were within the water district.

(3) Agreements under this section shall not operate for more than one year, but may be renewed unaltered from year to year without further licence of the Board unless the Board forbids the renewal thereof.

(4) The sanction of the Governor under section two hundred and fourteen of the *Local Government Act 1906* before the commencement of the *Local Government Act 1952* shall be deemed to be a prior licence of the Board for the purpose of renewing an agreement in the same terms.

Special agreements to supply water inside the water district.

6 Edw. VII., No. 31, s. 217.

27—(1) Subject to this Act, the undertakers may enter into an agreement under seal with the owner of any land situate within the water district, or, if the undertakers are a municipal council, within their municipality, for the supply of water to that land for a term of years, not exceeding fourteen years, at a price by measure to be stated in the agreement, not less than the current price of water supplied by measure by them.

(2) In every such agreement the owner of the land shall agree to pay the price stated in the agreement for the term limited in the agreement, and to take not less water in any year than the minimum quantity specified in the agreement, and any such agreement by the owner shall be deemed to be a covenant running with the land, and shall bind the land and the successive owners thereof during the said term.

(3) Nothing in any such agreement shall be construed to create any obligation on the part of the undertakers to supply any stated quantity of water in the event of any insufficiency of water as provided in section thirty, but in that event the owner of any land shall pay for the water actually supplied to him at the price provided for in the agreement.

Water for carting away.

28 The undertakers may sell to any person for use anywhere water to be carted away by him, or by his servants or agents, at such charge as is prescribed.

29—(1) The undertakers shall not supply water for irrigation or for any other purpose until all persons entitled, whether under this Act or the special Act or by contract, to a supply from them for domestic or stock supply purposes have been first supplied by the undertakers.

Domestic purposes to be first satisfied.
6 Edw. VII.
No. 31, s. 215.

(2) This section shall not prevent the undertakers from supplying water necessary for the health of the inhabitants of the water district or elsewhere, mariners sailing from a port in the water district, and stock in or travelling through the water district or in danger of dying of thirst in places near the water district.

30—(1) If at any time the supply of water at the disposal of the undertakers is insufficient in their opinion to afford all persons entitled by contract the supplies which they may respectively be entitled to receive from the undertakers, they may, subject to section twenty-nine, deliver to such persons such amount of water as may then be at their disposal in quantities proportionately according to the quantities which such persons would, had there been sufficient water available, have respectively been entitled to receive, and such persons shall be chargeable accordingly; and in no case shall the undertakers be liable to any action, claim, demand, or other proceeding for not supplying water to any person where it has been determined by the Board that the undertakers have been, without negligence or wilful default on their part, unable to supply such water.

Proportionate supply of water.
6 Edw. VII.
No. 31, ss.
218, 219.

(2) If the supply of water available to the undertakers falls short at any time of the quantity necessary to supply, in accordance with the provisions for apportionment contained in subsection (1) of this section, all the claims upon them for water in sufficient quantity to be of practical service, the Governor may, whenever he is satisfied of the actual or approaching insufficiency of such supply, make orders-in-council regulating the order of priority in which, and the quantities with which, the various water districts and persons entitled to water shall be entitled to be supplied.

(3) To obtain a determination by the Board for the purposes of subsection (1) the undertakers may apply to the Board by letter, and thereupon the Board may inquire into the matter as if appointed by the Governor a board of inquiry to inquire into that matter, and may certify its determination under its common seal, and the Board's certificate may be enrolled in the Supreme Court and pleaded in bar of any proceedings mentioned in subsection (1).

31—(1) If at any time the supply of water at the disposal of the undertakers appears, in their opinion, likely, unless specially conserved, to become insufficient for all reasonable and lawful demands on it, they may make a request to the Governor to take action under this section.

Shortage of water.

(2) Upon receipt of any such request the Governor may, by proclamation, prohibit the use of water supplied by the undertakers for such purposes as he thinks least beneficial to the public.

(3) Upon the making of a proclamation under this section the undertakers shall not be liable in damages or otherwise if they refuse to supply water for purposes thereby prohibited.

Supply may
be cut off for
repairs.

32—(1) The undertakers may, for the purpose of repairing or altering their works, cut off any supply of water for a reasonable period without any liability for failure to supply, but shall be bound to give reasonable notice to all persons whose supply is cut off of the time when it will be cut off and when it will be restored.

(2) If the supply fails or is cut off in an emergency no notice of cutting off shall be necessary and notice merely that the supply will be off for some hours, a day, or several days, or as the case may be, shall suffice.

(3) For failure to give reasonable notice the undertakers shall be liable only to a single penalty of one hundred pounds for all failures in the same area on the one day.

PART IV.

FIRE PROTECTION.

Undertakers
to affix
public fire-
plugs in
mains.

10 & 11 Vict.,
c. 17, s. 38.

33—(1) The undertakers may, and at the request in a fire district of the fire brigade board and elsewhere of the council shall, fix proper fire-plugs in the main and other pipes belonging to them, or erect and connect therewith pillar hydrants and stand pipes, at such places as may be most proper and convenient for the supply of water for extinguishing any fire which may break out within the limits of the special Act.

(2) In case of any difference of opinion as to the proper position or number of such fire-plugs, pillar hydrants, and stand pipes it shall be settled by the Minister or such persons or a majority of them as the Minister may appoint for the purpose.

Repair and
marking of
fire-plugs.

Ibid., s. 39.

34—(1) The undertakers shall keep every such fire-plug, pillar hydrant, and stand pipe in good repair and shall put up a public notice in some conspicuous place in each street in which such a fire-plug is situated, showing its situation.

(2) A notice under subsection (1) of this section may be put up by the undertakers on any house, building, fence, or wall in any such street.

Expense of
fire-plugs, &c.

Ibid., s. 40.

35 The cost of such fire-plugs, pillar hydrants, and stand pipes and the expense of fixing, placing, and maintaining them in repair, and of providing such notices, shall be defrayed by the fire brigade board or council at the request of which the fire-plug, pillar hydrant, or stand pipe is fixed, or by its successor in authority.

Fire-plugs
near factories
&c., at
request of
owners.

Ibid., s. 41.

36 The undertakers shall, at the request and expense of the owner or occupier of any factory, timber yard, or store situated in any street in which there is a pipe of the undertakers, place in that street and maintain in effective order a fire-plug or pillar hydrant as near as conveniently may be to the factory, timber yard, or store.

37 The undertakers shall, at all times, keep charged with water, under such pressure as is required by section eighteen, all their pipes to which fire-plugs are fixed, unless prevented by frost, unusual drought, or other unavoidable cause, or by accident, or during necessary repairs, and shall allow all persons during a fire to take and use water therefrom for putting out the fire or stopping its spread, without any charge.

Water to be available free at fire-plugs. *Ibid.*, s. 42.

PART V.

COMMUNICATION PIPES.

38—(1) Upon the request of any person entitled under section nineteen to demand a supply of water to his land, the undertakers shall lay down communication pipes and other necessary works for such a supply.

Connection to persons entitled to supply. Cf. 25 Geo. V. No. 47, s. 43, and 10 & 11 Vict., c. 17, s. 44.

(2) The communication pipes and other works between the main or other pipe of the undertakers and the boundary of the land supplied shall be provided, laid down, and maintained by and at the expense of the undertakers.

39—(1) Wherever the undertakers lay communication pipes to the boundary of any land to be supplied with water they may either connect them to the communication pipes laid on that land for the purpose or may terminate them at the boundary.

Connection with private pipes. Cf. 10 & 11 Vict., c. 17, s. 49.

(2) Where the undertakers terminate the communication pipes at the boundary of any land, the person wishing to connect a pipe on the land with one of the undertakers' pipes shall give two days' notice of the day and hour when he intends to make the connection, and shall make it under the superintendence, and according to the directions, of the officer appointed for that purpose by the undertakers, unless no such officer attends at the time mentioned in the notice.

(3) No such notice shall be required where the person making the connection is authorised by the undertakers to do such work without supervision.

PART VI.

METERS.

40—(1) The undertakers may at any time affix a meter in the pipe supplying water to any person, and may, without becoming in any way liable to that person, affix it on his land.

Power of undertakers to attach meters.

(2) A person on whose supply a meter has been so fixed shall draw his supply only through that meter.

Cf. 11 & 12 Geo. VI. No. 88, s. 17, 26 & 27 Vict., c. 98, s. 14, and No. 16 of 1949, s. 13.

(3) The undertakers may charge any such person for the use of the meter, in addition to any water rate or charge for water supplied to that person, such sums as may be prescribed.

(4) No charge for the use of a meter shall, in any year, exceed one-twentieth part of the cost of the meter plus reasonable provision for maintenance and administrative expenses.

(5) Such charges shall be recoverable in the same manner as the rates due to the undertakers for water.

Power of undertakers to let meters.
10 & 11 Geo. VI. No. 88, s. 18.

41—(1) The undertakers may let or hire to any person to whom water is supplied by measure any meter or instrument for measuring the quantity of water supplied to such person, for such remuneration in money as may be agreed upon between the undertakers and that person, and such remuneration shall be recoverable in the same manner as the rates due to the undertakers for water.

(2) Any meter let or hired in accordance with this section shall be attached and affixed to or in the works by which the water is supplied by or under the superintendence of such officer or servant of the undertakers as they shall appoint for that purpose or by some person authorised by the undertakers to do such work without supervision, and not otherwise.

Inspection and removal of meters, &c.
Ibid., s. 19.

42—(1) Any person acting under the authority of the undertakers may, at all reasonable times, enter any house, room, buildings, or lands, to, through, or into which water is supplied by the undertakers by measure for the purpose of inspecting any meter or of removing any meter or associated apparatus belonging to the undertakers.

(2) Any person who hinders any such person from entering or making such an inspection, or effecting such a removal, as the case may be, or who, not being an officer or employee of the undertakers, in any manner injures or interferes with any meter, shall be liable to a penalty of five pounds, in addition to the amount of damage or injury done.

Undertakers' meters, &c., not distrainable, &c.
Ibid., s. 20.
Cf. 26 & 27 Vict., c. 98, s. 14.

43—(1) No instruments, meters, or other apparatus belonging to the undertakers shall be subject to distress for rent of the premises where they are used, or liable to be attached or taken in execution under any process of any court.

(2) No person shall acquire any interest or property in any such instruments, meters, or apparatus under or in pursuance of any adjudication or order in bankruptcy or other legal proceedings against or affecting the consumer of water or the occupier of the premises or other person in whose possession the instruments, meters, or other apparatus may be.

Notice of removal, &c., of meter.
10 & 11 Geo. VI., No. 88, s. 21.

44—(1) Every person desiring to remove or alter the position of any meter shall give two days' notice in writing to that effect to the undertakers.

(2) The undertakers shall cause a registration of the quantity of water used to be taken, and the required removal or alteration to be made, and the consequent expense shall be paid by the person requiring the work, and no alteration shall be made, except by or under the direction of an officer of the undertakers, or until the permission of the undertakers has been obtained.

Evidence of meter reading.
No. 16 of 1949, s. 18.

45—(1) The undertakers shall maintain all meters in a sensitive and accurate working condition and shall read all meters at least once in each half-year.

(2) The reading of a meter shall be conclusive evidence of the quantity of water supplied to a user unless varied in accordance with this section.

(3) If a user is at any time dissatisfied with the accuracy of the reading of any meter, he may apply, in writing, to the undertakers to have the meter tested as provided by this section.

(4) When an application is made by a user under subsection (3) the undertakers shall cause the meter to be tested by an officer appointed by them for that purpose in the presence, if he so desires it, of the user or some person nominated by him.

(5) The reading of the meter shall be deemed to be accurate if, upon being tested, it is found to register the quantity of water measured at the test with an error of not more than three per cent.

(6) If a meter is found, upon being tested, not to register the quantity of water accurately within the meaning of subsection (5), the quantity of water supplied to the user, as measured by that meter, shall be adjusted for the percentage of error disclosed by the test, but no adjustment shall be made in respect of any period earlier than the commencement of the half year in which the user applied for the meter to be tested as provided by subsection (3).

(7) If upon being tested as provided by this section the reading of a meter is found to be accurate within the meaning of subsection (5) the user shall pay the cost, as determined by the undertakers, of making the test, which cost shall be recoverable in like manner as the rates due to the undertakers for water.

46 The occupier of land on which a meter belonging to the undertakers is installed shall at all times take all reasonable measures to protect it from damage or interference and shall be responsible for its safekeeping in the same manner as a bailee for reward.

Protection
of meters.
Ibid., s. 13.

PART VII.

PROTECTION OF WATER.

47 If by the special Act it is provided that the water to be supplied by the undertakers need not be constantly laid on under pressure, every person supplied with water shall, when required by the undertakers, provide a proper storage tank to hold the water with which he is so supplied, with a ball and stop cock in the pipe bringing the water from the works of the undertakers to the tank and shall keep the tank, ball, and stop cock in good repair, so as effectually to prevent the water from running to waste; and in case any such person, when required by the undertakers, neglects to provide such a tank, ball, or stop cock, or to keep the same in good repair, the undertakers may cut off the pipe or turn off the water from the land of that person until the tank, ball, or stop cock is provided or repaired, as the case may require.

Persons
using water
not under
pressure
to provide
cisterns.

10 & 11 Vict.,
c. 17, s. 54.

Specification
for pipes, &c.
11 & 12 Geo.
VI. No. 88,
s. 16.

48 The description of pipes and other apparatus by means of which water is laid on, distributed, or supplied within the boundary of any land shall be such as the undertakers determine, either generally or in classes of cases or in any particular case, and the undertakers shall not be bound to supply water in any case in which the required description of pipes or other apparatus is not provided; and the undertakers may cut off the pipes or turn off the water from any land supplied with water until the required description of pipes or other apparatus is provided.

Service pipes,
&c., to be
kept in
repair.

11 & 12 Geo.
VI. No. 88,
s. 25;

Cf. 10 & 11
Vict., c. 17,
ss. 55, 56.

49—(1) If any person, when required by the undertakers so to do, fails to keep in good repair the pipes and other apparatus by means of which his land is supplied with water, the undertakers may cut off those pipes, or turn off the water from that land, until such pipes and apparatus are sufficiently repaired.

(2) The undertakers may repair any such pipes or apparatus so as to prevent any waste of water, and the expenses of that repair shall be paid to the undertakers by the person allowing them to become out of repair.

Cisterns, &c.,
to be con-
structed so as
to prevent
waste.

11 & 12 Geo.
VI. No. 88,
s. 26.

Cf. 26 & 27
Vict., c. 93,
s. 17.

50 Every cistern or other receptacle for water which the undertakers may require or permit to be used, and every closet, urinal, and private bath supplied with water by the undertakers, shall be constructed and used in such manner as may be prescribed so as effectually to prevent the waste, misuse, or undue consumption of water and the flow or return of foul air or other noisome or impure matter into the mains or pipes of the undertakers, or into any pipes connected or communicating therewith; and the undertakers may cut off the pipe attached, or turn off the water supplied, to any cistern or other receptacle for water so required or permitted to be used, or any closet, urinal, or private bath which is not constructed or used as prescribed, until such cistern or other receptacle for water, or such closet, urinal, or private bath is constructed and used as prescribed.

Inspection
of premises
for waste.

11 & 12 Geo.
VI. No. 88,
s. 27;

Cf. 10 & 11
Vict., c. 17,
s. 57.

51 Any person acting under the authority of the undertakers may, at any reasonable time, by night or day, enter into any house or place supplied with water under the authority of this Act or the special Act to see if there is any waste or misuse of water, and the condition or state of repair of the pipes or works by which the water is supplied to that house or place, and may, for the latter purpose, break the surface of the ground under which the pipes are laid; and if that person is at any such time refused admission into the house or place, or is prevented from making his examination, the undertakers may turn off the water from that house or place.

Power to
cut off
water in
certain
cases.

26 & 27 Vict.,
c. 93, s. 16.

52 If any person supplied with water by the undertakers wrongfully does or causes or permits to be done anything in contravention of any of the provisions of the special Act, or wrongfully fails to do anything which, under any of those provisions, ought to be done for the prevention of the waste,

misuse, undue consumption, or contamination of the water of the undertakers, they may (without prejudice to any remedy against him in respect thereof) cut off any of the pipes by or through which water is supplied by them to him, or for his use, and may cease to supply him with water, so long as the cause of injury remains or is not remedied.

PART VIII.

BY-LAWS, RATES, AND CHARGES.

53—(1) Where the undertakers have no power under the *Local Government Act 1906* to make by-laws, they may with the approval of the Board and the consent of the Governor make by-laws for the purposes of this Act or of the special Act. Power to make by-laws.

(2) By-laws made under this section shall be kept posted by the undertakers in some public place within the water district.

(3) By-laws made under this section shall, upon publication in the *Gazette*, have the force of law within the limits of the special Act, and shall be enforceable in the same manner as by-laws made under the *Local Government Act 1906*.

54—(1) The undertakers may, subject to this Act, make by-laws for the purposes of this Act and the special Act— Subject of by-laws.
11 & 12 Geo.
VI. No. 88. s.
30.

- (a) regulating the charges, terms, and conditions upon which water shall be supplied to any person under the authority of this Act or of the special Act;
- (b) regulating the form, material, dimensions, description, construction, and arrangement of pipes, service pipes, and other apparatus, for the purposes of section forty-eight and prohibiting the use of any pipes, service pipes, and other apparatus which do not conform to the requirements of the by-laws;
- (c) preventing waste, pollution, or misuse of water; and
- (d) preventing injury to any part of the undertaking.

(2) Any such by-law may prohibit the use of water for any purposes other than domestic purposes, including purposes for which the undertakers may refuse to supply water under section twenty—

- (a) within such area; or
- (b) otherwise than on such days, if any, and during such hours, if any,

as the undertakers, or some committee or officer named in the by-law, may determine.

(3) A copy of every determination under subsection (2) shall be posted alongside the copy of the by-laws posted in accordance with section fifty-three.

(4) No person shall use any water in contravention of any determination under subsection (2) while the same remains in force.

Penalty: Ten pounds.

(5) Any such by-law may provide that it may be enforced by cutting off the pipe or service, or turning off the water, or by some pecuniary penalty not exceeding in any case the sum of twenty pounds.

Water rates.
Cf. 10 & 11
Vict., c. 17,
ss. 70 to 73.

55—(1) The undertakers may levy a water rate upon the annual value of all tenements supplied with water.

(2) Water rates levied under this Act shall, subject to subsections (3), (4), and (5) of this section, be made, levied, and recovered in the same manner as rates made and levied under the *Local Government Act 1906*.

(3) Water rates shall be paid in advance or otherwise and quarterly, half-yearly, or yearly, as determined by the undertakers; and the first payment shall be made at the time when the undertakers' pipe by which the water is to be supplied is laid to the boundary of the ratable tenement and charged with water.

(4) Where the ratable tenement is a dwelling-house or part of a dwelling of an annual value less than fifty pounds and occupied by a tenant for years or at will the water rate shall be payable by the person entitled to receive the rent thereof: Provided that where the tenancy was created before the commencement of this Act or provided that the tenant shall be liable to pay water rates, the person entitled to receive the rent may recover from the tenant as rent any rate paid by him under this section.

(5) Where the supply of water is commenced or discontinued during any period as provided in subsection (3) of this section a proportionate part only of the water rate shall be payable: Provided that where the supply is discontinued otherwise than by default of the undertakers the rate shall be payable in respect of the whole period unless notice of the discontinuance was given during the preceding period.

Charges.

56—(1) The undertakers may charge for water supplied by measure in accordance with a prescribed scale of charges, which charges shall be the same for similar conditions of supply.

(2) Such charges shall be enforceable in the same manner as expenses subject to section two hundred and thirty-six of the *Local Government Act 1906*.

Excess water.

57 The undertakers may charge for water up to a specified quantity by a water-rate, and for any additional water supplied by measure in accordance with section fifty-six.

58—(1) Any person liable for any rates or charges under this Act or the special Act may apply to the Board to review the rates levied or the scale of charges used by the undertakers. Moderation of rates and charges.

(2) The Board may inquire into the matter in accordance with the provisions of the *Water Sewerage and Drainage Board Act 1944*, and may, if it finds any impropriety or unreasonable excess, make a decree under its common seal for the reduction or variation of such rates or charges and providing for payment of the costs of the inquiry by the applicant or the undertakers.

(3) A decree made under this section may be registered in the Supreme Court and enforced as a judgment thereof.

(4) So much of such a decree as relates to rates and charges shall, until it is discharged by the Board, disentitle the undertakers to recover any greater amounts than those decreed.

59 If any person liable to pay any amount of water rate or charge for water supplied neglects to pay that amount within due time after it has been lawfully demanded, the undertakers may, after twenty-four hours' notice, stop the supply of water to the tenement in respect of which the rate or charge is payable by cutting off the pipes to the tenement, or by such other means as they may think fit, and the expense of cutting off the water may be recovered in the same manner as that in which the water rate or charge is recoverable. If payment of rates or charges in arrear, supply of water may be stopped.
11 & 12 Geo. VI. No. 88, s. 24.
Cf. 10 & 11 Vict., c. 17, s. 74.

PART IX.

MAP OF UNDERGROUND WORKS.

60—(1) The undertakers shall, within six months from the time at which any pipes, conduits, or underground works have been laid down or formed by them, cause a survey and map to be made of the district within which any such pipes or underground works are laid, on a scale not less than one foot to a mile, and shall cause to be marked thereon the course and situation of all existing pipes or conduits for the collection, passage, or distribution of water and underground works belonging to them in order to show all such underground works within the said district, and shall, within six months from the making of any alterations or additions, cause that map to be corrected, and such additions made thereto as may show the line and situation of all such pipes, conduits, and underground works as may be laid down or formed by them after the passing of the special Act. Map and plan of underground works to be made, and corrected from time to time.
10 & 11 Vict., c. 17, s. 19.

(2) That map and plan, or a copy thereof, with the date expressed thereon of the last time when it was so corrected, shall be kept in the office of the undertakers, and shall be open to the inspection of all persons interested in it within the said district.

Copies of map or plan to be deposited with council clerk, &c.: Inspection.

Ibid., ss. 20, 21.

7 Will. 4, and 1 Vict., s. 83, s. 2.

61—(1) The undertakers shall, within three months of the time at which any such map or plan, or any such correction thereof or addition thereto, has been made, deposit with the clerk or engineer of the city or municipality, according as the council may decide, in which the underground works are situated, copies of the map or plan, with all such particulars and all corrections and additions made thereto pursuant to section sixty, so far as relates to that city or municipality.

(2) The clerk or engineer shall receive and keep all such documents and allow all persons interested to inspect them, and take copies or extracts of and from them, upon payment of two shillings for every inspection, and the further sum of two shillings for every hour during which the inspection continues after the first hour.

(3) The Governor may, by notice in the *Gazette*, exempt any undertakers from compliance with subsection (1) in respect of any area not part of a city or town or built upon and not containing any mines.

Governor may forbid disclosure.

62 The Governor may, by writing to the undertakers and to the council under the hand of the Minister, prohibit the disclosure of all or any documents required to be kept under sections sixty and sixty-one to all or any persons.

PART X.

MINES.

Undertakers not entitled to mines unless expressly purchased.

10 & 11 Vict., c. 17, s. 18.

63—(1) The undertakers shall not be entitled to any mines of coal, ironstone, slate, or other minerals under any land purchased by them, except only such parts thereof as shall be necessary to be dug or carried away or used in the construction of the waterworks, unless the same have been expressly purchased.

(2) All such mines, excepting as provided in subsection (1) of this section, shall be deemed to be excepted out of the conveyance of such lands, unless they have been expressly named therein and conveyed thereby.

Rights of undertakers where mines and minerals in Crown.

64—(1) Notwithstanding anything contained in the *Mining Act* 1929, the undertakers may, for the purposes of constructing their works, dig, remove, use elsewhere, and dispose of, anything in the soil of any land belonging to them, gold and silver only excepted.

(2) Where—

(a) any mines or minerals, within the meaning of the common law or of the *Mining Act* 1929, in any land of the undertakers, are vested in the Crown; and

(b) the undertakers require for their undertaking to remove them and occupy the space thereby left,

the undertakers, upon covenanting to pay the value, of those mines and minerals, as they lie in the required space, to be

determined after their removal, shall be entitled to a grant of those mines and minerals, notwithstanding anything contained in the *Mining Act 1929* or in the *Crown Lands Act 1935*.

(3) The powers conferred on the undertakers by section nine may be exercised notwithstanding any right of the Crown in the soil of the street, that to gold, silver, and precious stones only excepted, or anything contained in subsection (2) of this section or in the *Mining Act 1929*.

(4) No lease under the *Mining Act 1929* shall be required for the exercise by the undertakers of the powers conferred by paragraph (c) of section seven.

65—(1) Except where otherwise provided for by agreement between the undertakers and other parties, if the owner, lessee, or occupier of any mines or minerals lying under the reservoirs or buildings belonging to the undertakers, or under any of their pipes or works which are underground and are described in the map or plan required by Part IX. to be kept and deposited by the undertakers, or within the distance prescribed by the special Act, if any, or if no distance is prescribed, within forty yards therefrom, be desirous of working the same, that owner, lessee, or occupier shall give the undertakers notice in writing of his intention so to do, thirty days before the commencement of working.

Working of mines lying near the works.

10 & 11 Vict., c. 17, s. 22.

(2) Upon the receipt of a notice under subsection (1) of this section, the undertakers may cause the mines to be inspected by any person appointed by them for the purpose, and if it appears to the undertakers that the working of the mines or minerals is likely to damage the said works, and if they are willing to make compensation for the mines to the owner, lessee, or occupier thereof, the owner, lessee, or occupier shall not work those mines or minerals.

(3) If the undertakers and the owner, lessee, or occupier do not agree as to the amount of the compensation, it shall be settled as in cases of disputed compensation.

66—(1) If before the expiration of the period of thirty days referred to in subsection (1) of section sixty-five, the undertakers do not state their willingness to treat with the owner, lessee, or occupier for the payment of compensation, as provided in that section, the owner, lessee, or occupier may work the mines, and may drain them, by means of engines or otherwise, as if this Act and the special Act had not been passed, but so that no wilful damage is done to the works, and so that the mines are not worked in an unusual manner.

If undertakers do not state their willingness to treat for payment of compensation, owner may work the mine. *Ibid.*, s. 23.

(2) If any damage or obstruction is occasioned to the works of the undertakers by the working of the mines in an unusual manner, that damage or obstruction shall be forthwith repaired or removed (as the case may require), and the damage made good by the owner, lessee, or occupier of the mines or minerals, and at his own expense.

(3) If such repair or removal is not forthwith done, or if the undertakers think fit, without waiting for it to be done by the owner, lessee, or occupier, the undertakers may do the work and recover from the owner, lessee, or occupier the expense occasioned thereby by action in the Supreme Court.

Mining communications.
Ibid., s. 24.

67 If the working of any such mines under the works of the undertakers or within the distance therefrom mentioned in section sixty-five is prevented by reason of apprehended injury to those works, the respective owners, lessees, and occupiers of mines may cut and make such and so many airways, headways, gateways, or water levels through the mines, measures, or strata the working whereof is so prevented, as may be requisite to enable them to ventilate, drain, and work any mines or minerals on each or either side thereof, but no such airway, headway, gateway, or water level shall be of greater dimensions or sections than the dimensions or sections prescribed by the special Act, or if no dimensions are so prescribed shall not exceed eight feet wide and eight feet high, and shall not be cut or made upon any part of the works so as to injure them.

Undertakers to make compensation to owner, lessee, or occupier of mines for expenses incurred by severance of mines, or by interruptions of or restrictions on works, and for minerals not obtained.
Ibid., s. 25.

68—(1) Except where otherwise provided for by agreement, the undertakers shall pay to the owner, lessee, or occupier of any mines of coal, ironstone, and other minerals extending so as to lie on both sides of any reservoirs, buildings, pipes, conduits, or other works, all such additional expenses and losses as shall be incurred by such owner, lessee, or occupier by reason of the severance of the lands over such mines or minerals by such reservoirs or other works, or of the interruption of the continuous working of such mines or minerals under section sixty-five, or by reason of their being worked under the restrictions contained in this Act or the special Act, and for any mines or minerals not purchased by the undertakers which cannot be obtained by reason of making and maintaining the said works or by reason of such apprehended injury from the working thereof.

(2) If any dispute or question arises between the undertakers and the owner, lessee, or occupier touching the price of such minerals, the same shall be settled in accordance with the provisions of the *Public Authorities' Land Acquisition Act 1949*.

Power to undertakers to enter and inspect the working of mines, after giving notice of the same.
Ibid., s. 26.

69 For the better ascertaining whether any such mines are being worked or have been worked so as to damage the said works, the undertakers may, after giving twenty-four hours' notice in writing, enter upon any lands through or near which the works are situated, and wherein any such mines are being worked or are supposed so to be, and may enter into and return from any such mines or the works connected therewith, and they may, for that purpose, make use of any apparatus or machinery belonging to the owner, lessee, or occupier of the mines, and use all necessary means for discovering the distance from the works to the parts of the mines which are being worked or about to be worked.

70 Nothing in this Act or the special Act shall prevent the undertakers from being liable to any action or other legal proceeding to which they would have been liable for any damage or injury done or occasioned to any mines by means or in consequence of the waterworks, if their waterworks had not been constructed or maintained by virtue of this Act or the special Act.

Nothing to prevent undertakers from being liable to actions for injury done to mines. *Ibid.*, s. 27.

PART XI.

OFFENCES.

71—(1) No person shall—

- (a) destroy or injure any part of the undertaking;
- (b) remove, injure, or destroy any survey peg or landmark inserted or made in connection with any work constructed under the authority of this Act or the special Act;
- (c) in any manner prevent or obstruct the flow of water in or through any part of the undertaking; or
- (d) otherwise injure or obstruct the passage of the water in a pure and wholesome state through any part of the undertaking.

Offences.

11 & 12 Geo. VI. No. 88, s. 28
 Cf. 10 & 11 Vict., c. 17, ss. 58, 59, 61, 62, 64; 26 & 27 Vict., c. 93, s. 17.

Penalty: Fifty pounds.

(2) No person shall—

- (a) bathe in any stream above and within the prescribed distance of the undertakers' source of supply or in any lake which is a source of supply within the prescribed distance of the intake of the waterworks or in any reservoir or other part of the undertakers' waterworks, or wash, throw, or cause or permit to enter therein any animal, whether alive or dead;
- (b) throw any rubbish, dirt, filth, or other noisome thing into any lake, or stream from which the undertakers are lawfully diverting water, so as to affect the undertakers' source of supply, or into any reservoir or other part of their undertaking, or wash or cleanse therein any cloth, wool, or leather, or the skin of any animal, or any clothes or other thing; or
- (c) cause or permit the water of any sink, sewer, drain, steam engine, or boiler, or other filthy water belonging to him or under his control to run or to be brought into any such lake, or stream so as to affect the undertakers' source of supply, or into any reservoir or other part of the undertaking, or do or permit to be done any other act whereby the water in the undertaking or any water supplying the same is fouled.

Penalty: Ten pounds.

(3) No person shall—

- (a) being the owner or occupier of any premises supplied with water under this Act or the special Act, supply any other person or wilfully permit any other person to take any of such water from any cistern, pipe, or service, or on such premises, except for the purpose of extinguishing any fire, or unless such other person is a person supplied with water by the undertakers from their waterworks, and the pipes belonging to him are out of repair otherwise than through his own fault;
- (b) without the permission of the undertakers, take any water from any reservoir, watercourse, or conduit belonging to the undertaking, or any pipe leading to any such reservoir, watercourse, or conduit, or from any cistern or other like place containing water belonging to the undertaking other than water which is provided for the gratuitous use of the public;
- (c) make any pipe to communicate with any waterworks or pipes of the undertakers without the authority of the undertakers in that behalf;
- (d) wilfully or carelessly break, injure, operate, or interfere with, any lock, cock, valve, pipe, work, or engine belonging to the undertaking, or flush or draw off the water from the reservoirs or other waterworks of the undertakers, or do any other wilful act whereby such water is wasted;
or
- (e) foul the water supplied by the undertakers by making or supplying gas.

Penalty: Twenty pounds, and a daily penalty of two pounds after the expiration of twenty-four hours after notice of the alleged offence is served upon that person.

(4) No person supplied with water by the undertakers shall suffer any pipe or other apparatus by means of which his premises are supplied with water to be out of order so that the water supplied to those premises by the undertakers is wasted.

Penalty: Ten pounds.

(5) No person shall permit or suffer the drainage from any yard, pigsty, stable, cow-house, sawmill, or other place to so run, drain, or percolate as to render the water in the waterworks or supplying the same unwholesome.

Penalty: Ten pounds, and a daily penalty of two pounds after the expiration of twenty-four hours after notice of the alleged offence is served on that person.

(6) Every person convicted of any offence against this Act may be ordered to pay, in addition to the penalty imposed in respect of the offence, a sum equal to the value of the property damaged or destroyed by him by reason of the commission of the offence.

72—(1) Where by this Act or the special Act a duty is cast on the undertakers for breach of which no penalty is therein prescribed, the undertakers shall be liable to forfeit to the Crown at the suit of the Board a penalty of five pounds for every breach of such a duty, together with a daily penalty of one pound during its continuance, if it is a continuing breach. Liability of undertakers.

(2) No action shall be brought under subsection (1) of this section for any remediable breach unless the Board has given the undertakers fourteen days' notice in writing to remedy the breach and they have failed or refused so to do.

(3) Where by this Part or the special Act a duty is cast on the undertakers for the benefit of any person requiring a supply of water an action shall lie for any breach of that duty, at the suit of the person thereby losing the benefit.

(4) Where the undertakers take upon themselves to supply water under section twenty-three or section twenty-eight they shall be deemed to carry on a public trade of the same nature as a common carrier, a common innkeeper, or a common smith.

WATER, SEWERAGE AND DRAINAGE BOARD.

No. 87 of 1952.

AN ACT to amend the *Water, Sewerage and Drainage Board Act 1944.* [19 December, 1952.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Water, Sewerage and Drainage Board Act 1952.* Short title and citation.

(2) The *Water, Sewerage and Drainage Board Act 1944*, as subsequently amended, is in this Act referred to as the Principal Act.