

TASMANIA.

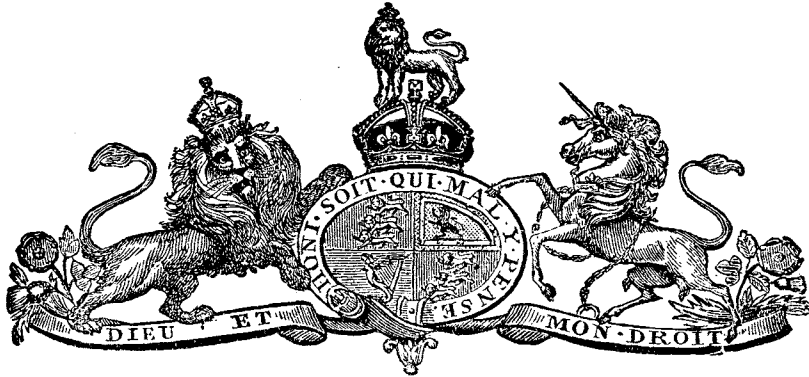
THE DEVONPORT SEWERAGE ACT, 1930.

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TASMANIA.



1930.

ANNO VICESIMO PRIMO

GEORGII V. REGIS.

No. 71.

AN ACT to enable the Council of the Municipality of Devonport to borrow a sum or sums of money, not exceeding in the whole the sum of Thirty-eight thousand two hundred and sixty Pounds, for the purpose of providing a system of Drainage and Sewerage for the Town of Devonport.

A.D.
1930.

[12 January, 1931.]

WHEREAS it is expedient to provide an efficient drainage and sewerage system for the Town of Devonport: Preamble.

And whereas the Council of the Municipality of Devonport is desirous of obtaining legislative authority to borrow the money necessary to carry out the said works under the provisions of the Local Bodies Loans Act:

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Be it therefore 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:—

Short title and
incorporation
with 6 Ed. VII.
No. 31.

1 This Act may be cited as “The Devonport Sewerage Act, 1930,” and shall be incorporated and read as one with the Local Government Act, 1906.

Interpretation.

2 In this Act, unless inconsistent with the context or subject-matter—

“Drain” means any drain used for the drainage of one building only or of premises within the same curtilage, and includes any drain for draining any group or block of houses by a combined operation under the order of the Council:

“Occupier” means the person for the time being in actual or constructive occupation of the premises:

“Owner” includes the person for the time being who receives or is entitled to receive the rent of the lands or premises in connection with which the word is used, whether on his own account or as agent of, or as trustee for, any other person, or who, if such lands or premises were let to a tenant at a rack-rent, would be entitled to receive the rack-rent from the occupier thereof:

“Proper officer” means any officer of the Council generally or specially authorised by the Council in respect of, or whose duty it is to deal with, or to act in regard to, any acts, matters, or things in connection with which the expression is used:

“Premises” includes any house and any building whatsoever, and any part of any house or building, and any garden, stable, yard, or other offices used together or in connection with any house or building and every part thereof:

“Sewer” means any sewer or underground gutter or channel which is not a drain within the meaning of this Act, and any drain or portion of a drain laid between a sewer and the boundary line of any allotment or curtilage:

“Sewerage district” means and includes all that part of the Town of Devonport as described in the schedule hereto:

The sewerage district may, by notice in the Gazette, from time to time be altered, increased, or (in case of any error therein) amended.

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- “Sewered property” means as well as any sewered land or premises, any land or premises contiguous to any street, through or along which a sewer has been constructed by the Council, and is ready to receive connections from any such land or premises to convey the sewerage or drainage therefrom to such sewer. A.D. 1930.
- 3** It shall be lawful for the Council (on behalf of the Corporation) to borrow, on mortgage of its rates, in accordance with the provisions of the Local Bodies Loans Act as hereinafter modified, any sum or sums of money, not exceeding in the whole Thirty-eight thousand two hundred and sixty Pounds for the purpose of defraying the cost of such drainage and sewerage works as may be necessary, and for all costs, outgoings, charges, and expenses incidental thereto. Power to borrow.
- 4** It shall be lawful for the Council from time to time to make, construct, lay down, maintain, alter, or discontinue such sewers, drains, and other works as the Council may think necessary for the purposes of this Act. Power to construct sewers, &c.
- 5** In the application of the Local Bodies Loans Act to the loan hereby authorised and the proceedings to be taken by the Council in connection therewith, the following enactments, namely— Application of Local Bodies Loans Act.
- I. Sections Five and Six; Sections Fourteen to Sixteen inclusive; and Sections Twenty-two to Thirty-five inclusive of the Local Bodies Loans Act: 45 Vict. No. 16.
 - II. Section One to Four inclusive of the Local Bodies Loans Amendment Act: 46 Vict. No. 14.
 - III. The Local Bodies Loans Act, 1896: and 60 Vict. No. 4.
 - IV. The Local Bodies Loans Amendment Act, 1901— 1 Ed. VII. No. 8.
- shall have no effect.
- 6** The rate of interest to be payable in respect of the moneys to be secured by any debenture issued in pursuance of this Act shall not exceed Six Pounds per centum per annum. Interest on debentures.
- 7** For the purposes of making, performing, constructing, and establishing such drains, conveniences, connections, and things as aforesaid, or of cleansing, renewing, repairing, or amending the same (the cost of which shall be payable by such owner or owners as aforesaid, as expenses as aforesaid, and in like manner) it shall be lawful for the Council, their inspectors, overseers, contractors, and workmen to enter upon any land or premises at all reasonable hours during the day time, and to do all things necessary or proper for the abovementioned pur- Power to enter on land to carry out work authorised by the Act.

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poses, or any of them: Provided that in every such case entry shall be made so as to interfere as little as possible with the occupier of such land or premises or his business.

Authority to
levy rate.

8—(1) For the purpose of carrying out the provisions of this Act, and for providing for the payment of interest and any moneys required for a sinking fund in respect of the said loan, it shall be lawful for the Council once in every year:—

- I. To make and levy in respect of every rateable property within the sewerage district a rate to be called the sewerage rate not exceeding Three-pence in the Pound of the net annual value of such property:
- II. To make and levy, in addition to the sewerage rate, in respect of every rateable sewered property within the sewered district a rate to be called the service rate not exceeding Two Shillings in the Pound of the net annual value of such property.

(2) Any such rate shall be made upon, and be payable by, the owners of the properties included in the sewerage district, and shall be recoverable under the provisions of the Local Government Act, 1906, as if the same were a rate made under that Act.

(3) Where portion only of any property is included in the sewerage area, it shall be lawful for the Council to make a separate assessment of such portion of property for rating purposes in respect of this Act.

Property used
by the Crown,
&c., shall be
subject to the
rate.

9—(1) Every property upon which any building is erected belonging to, or used by, or on behalf of, the Crown, or any person or body of persons, corporate or incorporate, notwithstanding that such property may be exempt from any tax or rate which may be imposed or levied by the Council, shall be subject to the sewerage rate, made and levied in pursuance of the last preceding section, the assessment being on the same principle as on other property within the sewerage district.

Power to
Crown and
others to
pay annual
sum in lieu of
rate.

(2) The Crown or any person or body of persons, corporate or incorporate, may in every such case as is mentioned in the last preceding subsection commute its liability to pay any such rate by contribution of an annual sum, to be agreed upon by the Council and the Treasurer of the State or Commonwealth, or any person or body of persons, corporate or incorporate, as the case may be.

Council to
provide a map
of sewerage
system.

10 The Council shall provide a map exhibiting a system of sewerage and drainage for effectually draining the sewerage district, may cause all necessary surveys to be made and levels to be taken for the purpose of making such map or maps, and

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laying-out such system of sewerage and drainage; and a copy of such map or maps shall be kept at the office of the Council, and shall at all reasonable times be open to the inspection of the ratepayers of the sewerage district; and the Council shall cause all such inquiries to be made as it may think necessary to ascertain the best means of disposing of the sewerage, and the cost of carrying out the system of sewerage and drainage.

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11 The Council shall keep in repair all sewers and drains vested in it, and shall cause to be made such sewers and drains as may be necessary for effectually draining the sewerage district or such part thereof as the Council may from time to time decide, and shall cause such sewers and drains to be properly constructed, covered, ventilated, and kept so as not to be a nuisance or injurious to health. And the Council may cause any shaft, pipe, tube, valve, or other apparatus for ventilating any sewer or drain to be attached to any wall or any building situate within the sewerage district.

Council to keep sewers in repair.

12 The Council may construct any sewer, drain, or other work connected with the sewerage or drainage of the sewerage district through, across, or under any street or place laid out or intended as a street, or under any railway or tramway, and after giving reasonable notice, in writing, to the owner or occupier, into, through, or under any lands whatsoever within the sewerage district.

Power to erect sewers, drains, &c., under streets and private property.

13 Nothing in the said Act shall authorise the Council to make or use any sewer, drain, or outfall for the purpose of conveying sewage or filthy water into any fresh-water stream or water-course, or into any canal, pond, or lagoon until such sewage or filthy water is freed from all excrementitious or other foul or noxious matter as would affect or deteriorate the purity or quality of the water in such stream, water-course, canal, pond, or lagoon.

Council shall not convey sewage into any canal, pond, lagoon, or stream.

Provided that nothing in this section shall prevent the construction of storm-water overflows from any sewer belonging to the Council to be used only in the case of rainfall exceeding the carrying capacity of the said sewers or pumping plant.

14 The Council may, from time to time, enlarge, lessen, alter the course of, cover in or otherwise improve, any sewer or drain belonging to it, or may discontinue, close up, or destroy any such sewer or drain that has in its opinion become unnecessary, on condition of providing a sewer or drain as effectual for the use of any person who may be deprived in pursuance of this section of the lawful use of any sewer or

Power to enlarge or discontinue any sewer or drain.

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drain: Provided that the discontinuance, closing up or destruction of any sewer or drain shall be so done as not to create any permanent nuisance.

Power to construct works for disposing of sewage, &c.

15 For the purpose of collecting, receiving, storing, disinfecting, purifying, distributing, or otherwise disposing of sewage, and street and house refuse, and of cleansing and flushing the sewers and drains, the Council may—

- I. Construct any works that the Council may deem necessary, either within or without the sewerage district: and
- II. Contract for the use of purchase, or exchange, or take on lease, any land, buildings, engines, materials, or apparatus, either within or without the sewerage district: and
- III. Enter into an agreement with the owners of properties outside the sewerage district to sewer such properties on such terms and conditions as the Council may think fit.

Provided that no nuisance be created in the exercise of any of the powers given by this section.

Power to purchase, take, lease, sell, or exchange lands.

16—(1) The Council may for the purposes, and subject to, the provisions of this Act, purchase, or take, or lease, sell, or exchange any lands situated within or without the sewerage district.

(2) Any lands so acquired, and which are no longer required for the purpose for which they were acquired, may be sold at the best price that can be obtained for the same.

All sewers, &c., constructed so as not to be a nuisance

17 The Council shall cause all sewers and drains within any such part of the sewerage district as aforesaid to be constructed and kept so as not to be a nuisance or injurious to health, and to be properly cleared, cleansed, and emptied; and for the purpose of clearing, cleansing, and emptying the same, may construct and erect such works as appear necessary, and may cause all or any of such sewers and drains to communicate with, and be emptied into, such places as they may deem fit or necessary, and no person shall, without the consent of the Council, cause any private drain or sewer to be emptied or flow into any public drain or sewer under the control of the Council, nor do any act, matter, or thing, which in the opinion of the Council, tends to the injury or stopping of any such drain or sewer.

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18—(1) The Council shall, after sewers have been laid in any street or part of a street within the sewerage district, cause a general notice to be given that the Council has made provision for carrying off the sewage from each and every property which, or any part of which, abuts on such street or part of a street in which sewers have been laid; and after such time as is fixed by the Council in the notice, each and every such property shall be deemed and taken to be a sewered property within the meaning of this Act.

(2) The Council may, by a further general notice, order that the owner of each and every property which or any part of which abuts on the said street or part of a street, if there are any houses or buildings on such property, shall within such time as is specified in such further notice or within such further time as the Council allows, provide such proper water-closet or water-closets, drains, appliances, apparatus, and connections with such sewer or sewers as are prescribed or directed by the Council.

19—(1) Within one month after a date to be specified in the further general notice, or within such further time as the Council (either before or after the expiration of such one month) allows, the owner of each and every property abutting on such street or part of a street shall if there are any houses or buildings on such property—

- I. Submit for the approval of the Council a plan including a map, drawn to scale, for providing such property with such water-closet or water-closets, and such drains, appliances, apparatus, and connections fitted and laid in such manner as set forth in any by-law or direction of the Council or any modification thereof which the proper officer, on written application made to him, approves in writing under his hand, and such owner shall, in writing, undertake to carry out such plan within one month or such further time as the Council allows if the plan is approved by the Council: or
- II. Submit for the approval of the Council a plan as aforesaid, and, in writing, request the Council if it does not approve thereof to make such alterations and amendments therein as the Council considers necessary, and thereupon the Council shall do so or give its approval to the firstnamed plan, and if any alterations are required the owner shall forthwith make the same to the satisfaction and approval of the Council.

As soon as the Council gives its approval, such owner shall, in writing, undertake to carry out such plan within one month or such further time as the

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All properties in the sewerage district to be deemed to be sewered after notice given by Council.

Authority upon giving notice to require owners in sewerage district to provide connections, water-closets, &c.

Owners to submit plans for providing water-closets and connections.

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In default of owner complying, Council may carry out works at his expense.

Power for Council to enter land and inspect and ascertain if notice to carry out works is being complied with.

Power to require alterations.

Power to cause drainage of group of houses.

Council allows, or shall, in writing, request the Council to carry out the same at the cost and expense of the said owner, and thereupon the Council shall do so. Any expenses connected with the preparation of plans and estimates by the Council for an owner shall be paid by the owner.

(2) If within such one month or such further time any such owner has not complied with any of the foregoing requirements, or if after undertaking so to do any such owner has not within the time limited provided such water-closet or water-closets, and such drains, appliances, apparatus, and connections as aforesaid, then the Council may order such owner to comply with such of the requirements of the further general notice as it deems to be necessary or in default of such compliance may carry out such undertaking (as the case may be).

(3) When the Council carries out the work of providing such water-closet or water-closets, and such drains, appliances, apparatus, and connections, the Council shall at its own cost and expense keep and maintain the same in good repair for a period of twelve months from the time of completing the work, unless the necessity for such repair is caused by the wilful act or negligence of the owner or occupier of the premises.

(4) The Council by its proper officer may at any reasonable time in the day time, after twenty-four hours' notice, in writing, has been given to the occupier or left upon the premises with some person residing thereon, or in case there is no person resident on the said premises without notice enter any premises and ascertain and determine whether any such further general notice has or has not been complied with.

(5) The Council may cause the works hereinbefore mentioned to be inspected while in progress; and from time to time during their execution the proper officer may, in writing, order such reasonable alterations therein or additions thereto as he thinks necessary.

20 If it appears to the Council that a group or groups of houses, or any number of houses in the same vicinity, adjacent or separated by vacant land, or that any block or blocks of vacant land may be sewered and drained more economically or advantageously in combination than separately and a sewer of sufficient size already exists or is about to be constructed within such reasonable distance as is prescribed or determined by the Council of any part of any such group or number of houses or such block or blocks of vacant land, the Council may order that any such group or number of houses or such block or blocks of vacant land be sewered or drained by a combined operation. The Council may order that any new building or premises shall be connected with any sewer or drain used or to be used for sewerage and draining by such a combined operation.

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- 21** All houses within any such part of the sewerage district as aforesaid shall have such drains leading to such sewers or other places, and having such a fall, and constructed of such material, and in such manner as shall be satisfactory to the Council. No drain shall, without the written consent of the Council, and then only upon complying with such conditions as the Council may impose, be made under any house or under the surface of any yard or premises; and the Council may in the case of their not being any such satisfactory drain to any house or premises within the sewerage district cause such drains to be made. A.D. 1930.
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Drainage of houses.
- 22** All drains whatsoever, water-closets, sinks, grids, stables, cow-houses, yards, and places within any such part of the said sewerage district as aforesaid shall be constructed and kept so as not to be a nuisance or injurious to health, and so that there is no overflow, or leakage, or soakage therefrom. All drains, &c., to be kept so as not to be a nuisance.
- 23** In case, in the opinion of the Council or its proper officer, it is necessary or expedient for the proper drainage of any land, street, lane, right-of-way, yard, passage, private premises, or other place within the sewerage district that drains or sewers should be made through or under any one or more private premises, whether occupied or not, it shall be lawful for the Council to make an order on the owner or owners of such premises requiring such owner or owners to permit the formation of such drains or sewers through or under such premises, and after the expiration of one month from the making of such order, the Council may form or make through or under such premises such drains or sewers as may, in the opinion of the Council, be necessary for the proper drainage of such land, street, lane, right-of-way, yard, passage, private premises, or other places as aforesaid: Provided that such drains or sewers shall be made and maintained in good order so as not to be a nuisance or injurious to health. Where the Council has under the powers conferred by this section formed or made any drain or sewer through or under private premises the Council shall not be required to pay any compensation therefor to the parties interested, except in reference to any building that may be injured or interferred with by such drain or sewer or the making thereof, and which the Council has not reinstated or repaired. Power to drain under houses.
- 24** Any person who, in the sewerage district, without the written consent of the Council, causes any building to be newly erected over any sewer of the Council shall forfeit to the Council the sum of Five Pounds, and a further sum of Forty Shillings for every day during which the offence is continued after written notice in this behalf from the Council: And the No building to be newly erected over sewer.

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Council may cause any building erected in contravention of this section to be altered, pulled down, or otherwise dealt with as it thinks fit, and may recover in any court of competent jurisdiction any expenses incurred by it in so doing from the offender.

Power for
Council to
inspect.

25—(1) The Council may inspect and test any drain, water-closet, sink, trap, pipe, or other apparatus connected therewith within the sewerage district, and for that purpose at all reasonable times in the day-time, after twenty-four hours' notice, in writing, has been given to the occupiers of the premises whereon the inspection is to be made, or left upon the premises, or in case of emergency without notice, and such person so appointed may enter by himself or with workmen and cause the ground to be opened in any place he may think fit, doing as little damage as may be.

(2) In case any such drain, water-closet, sink, trap, pipe, or other apparatus be found on inspection or testing to have been made contrary to the provisions of this Act or regulations thereunder, or to be in bad order and condition, or to require cleansing or repairing, the Council shall give notice, in writing, to the owner of the premises requiring him to do the necessary works within such time as may be specified in such notice.

(3) If such notice be not complied with by the owner of the premises, the Council may, if it thinks fit, execute such works, and the expenses incurred by it in so doing shall be paid to it by the owner of the premises.

(4) If such drain, water-closet, sink, trap, pipe, or other apparatus be found on inspection as aforesaid to be made to the satisfaction of the Council, and in proper condition and order, the Council shall cause the same to be reinstated and made good, and the whole expenses of the inspection and reinstatement shall be defrayed by the Council.

If owner
required to do
any act,
occupier also
liable at option
of Council.

26 In any case where it is deemed necessary by the Council that the owner of any premises shall do any act, matter, or thing, or construct any works, the Council may, if it thinks fit, at the option of the Council, require the person occupying or in possession of the premises to do any such act, matter, or thing, or to construct such works, as the Council may deem necessary; and any such owner, and also the person occupying or in possession of the premises, who refuses or neglects to comply with such direction, order, or notice after service thereof, and within a certain time specified to be named therein, shall be liable to a penalty for each and every day after the expiration of such specified time of not more than Five Pounds, and not less than Five Shillings.

Provided that any expense incurred by the person occupying or in possession of the premises in complying with the said

Devonport Sewerage.

direction, order or notice of the Council shall be recoverable by the person occupying or in possession of such premises from the owner in any court of competent jurisdiction as money paid to the use of such owner, or may be deducted from or set off against the rent then due or thereafter at any time, and from time to time to become due; and the owner from and against whom such expenses are so recovered, deducted, or set off, if he be a tenant to another person of the same premises, may in like manner recover, deduct, or set off the said expenses, any covenant or agreement whatsoever to the contrary notwithstanding. A.D. 1930.

Provided further, that in the event of the neglect or failure of the person to whom any such order or notice shall be addressed to comply therewith, the Council may if it see fit, carry out the requirements of such order or notice, and may recover in manner hereinafter provided from such person all costs and expenses which the Council shall thereby have incurred. Provided also, that when the owner or occupier of any premises is from poverty or otherwise unable, in the opinion of the Council, effectually to carry out the requirements of any order, regulation, by-law, or of any of the provisions of this Act relating to the construction of any works or the doing of any matter or thing for the purposes of this Act, and the value of the property is insufficient to defray such costs, the Council may without enforcing such requirements on such owner or occupier enter the said premises, and out of the rates or moneys applicable to the execution of this Act, construct such works. No occupier of any premises shall be liable to pay more money in respect of any expenses charged by this Act on the owner thereof than the amount of rent due from him for the premises in respect of which such expenses are payable at the time of the demand made upon him, or which shall at any time after such demand, and notice not to pay such rent to his landlord have accrued and become payable by him, unless he neglect or refuse upon application made to him for that purpose by the Council, truly to disclose the amount of his rent, and the name and address of the person to whom such rent is payable; but the burden of proof that the sum demanded of any such occupier is greater than the rent which was due by him at the time of such demand, or which has since accrued, shall lie upon the occupier. Provided further, that nothing herein contained shall be taken to affect any special contract made between any such owner or occupier respecting the payment of the expenses of any such works as aforesaid.

27—(1) In all cases in which the Council provides any water-closet or drains, appliances, apparatus, and connections pursuant to the requirements of the owner of any property or in default of the compliance of such owner with any lawful Power to recover cost of any work done by Council.

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order or direction of the Council, or pursuant to any such requirement or in any such default carries out on any property any works, matters, or things under this Act, the costs and expenses thereof shall be paid by the owner of the property, and may be recovered after the expiration of one month from the time that the proper officer certifies, in writing to the Council, that the same have been provided or carried out, and the amount of the costs and expenses.

(2) At the request of the owner the Council may accept payment of such costs and expenses by instalments bearing interest, on such portion as from time to time remains unpaid, at a rate not exceeding Seven Pounds per centum per annum.

(3) Such request shall be made in writing, and signed by the owner, and shall be lodged with the Council within one month from the time of such owner being notified in writing by the Council of the amount of such costs and expenses.

(4) The first instalment shall be made immediately on the expiration of the said month.

(5) Notwithstanding anything in this section the said owner may at any time pay to the Council such portion as then remains unpaid of such costs and expenses, together with the interest thereon as aforesaid to the date of payment.

(6) Every notification as aforesaid shall set forth the conditions under which payment by instalments may be made as provided in this section.

(7) If any of the instalments or interest is not paid within fourteen days after the due date thereof the whole amount then unpaid of the costs and expenses with interest thereon shall, if the Council so desires, become due and payable by, and may be recovered from the same persons, and in the same manner as is provided by this Act for the recovery of costs and expenses.

(8) Payment of any instalment and interest may be recovered in the like manner.

(9) The certificate, in writing, of the proper officer shall be *prima facie* evidence that the water-closet, drains, appliances, apparatus, or connections have been provided or the works, matters, or things have been carried out (as the case may be), and *prima facie* evidence as to the amount of costs, expenses, and interest recoverable in respect thereof.

Work to be of such materials and as directed by Council, and carried out by licensed persons,

28 Any work or thing to be executed or done shall be of such materials, and within such time, or in such manner as is directed or approved in any particular case by the Council, or the proper officer, or any person duly authorised by it; and all such works and things shall be executed by qualified or licensed persons only.

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29—(1) In the exercise of the powers granted in relation to any works authorised under this Act, the Council shall cause as little detriment and inconvenience and do as little damage as possible, and, in every case where the interests of any person are injuriously affected by the exercise by the Council of any powers conferred by this Act, compensation shall be paid by the Council. A.D. 1930.
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Payment of
compensation.

(2) Such compensation as aforesaid shall be determined in accordance with the provisions of the Local Government Act, 1906.

30 Any trustee being owner of any lands or property, as such trustee, may apply any of the funds under his control, in relation to such lands or property, in defraying any rates, charges, costs, or expenses necessarily or properly incurred by him under this Act as such owner. Powers of
trustees.

31 Any agent may deduct from any moneys held by him for his principal all rates, charges, costs, and expenses necessarily or properly incurred and paid by him under this Act as owner of any houses, lands, or premises for which he is the agent of such principal, or he may in any court of competent jurisdiction or in a court of petty sessions as a civil debt recoverable summarily recover from such principal the amount so incurred and paid. Powers of
agents.

32 Where under a lease, whether executed before or after the passing of this Act, a lessee has the right to remove buildings at the end of his term, he shall not be entitled to remove the same or any part thereof:— Lessee's right
of removing
buildings con-
trolled.

- I. Unless he first pays to the lessor or to the Council all the costs, and expenses, and interest paid or payable under this Act by the lessor in respect of any drains, appliances, apparatus, and connections constructed by or at the cost of such lessor for the purposes of the buildings or part so removed: or
- II. Unless the removal of the buildings or part can be effected without injury to such drains, appliances, apparatus and connections.

33 The Council may make by-laws (not repugnant to this Act) for the better carrying out the purpose and provisions of this Act, and for prescribing the mode in which the duties imposed upon, and the authorities and powers conferred upon or exercisable by, the Council shall or may be performed, and for fixing all charges, and for fixing a penalty for every offence not herein provided, such by-laws to be in accordance with and passed, enforced, and repealed according to the provisions of the Local Government Act, 1906. By-laws.

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Pollution of
waters.

34 Every person who wilfully throws or casts or causes or allows to be thrown or cast or to flow or fall into any of the storm-water channels, drains, or sewers within the sewerage district any refuse, filth, dirt, grease, decomposed substance, or substance liable to decompose, or any poisonous, noxious, offensive, or unwholesome matter shall without prejudice to any other proceedings to which he is liable, therefor be liable to a penalty for the first offence of not more than Twenty Pounds, and for every subsequent offence to a penalty of not more than Fifty Pounds, and in cases of a continuing offence to a further daily penalty not exceeding Five Pounds.

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

35—(1) If any person knowingly erects or constructs any building, wall, bridge, fence, mound, embankment, excavation, tunnel, or work in, upon, over, or under any sewer without the previous consent in writing of the Council—

- I. The Council may demolish and remove the same and perform any works necessary for restoring or reinstating the sewer: and
- II. Such person and the person who has directed the same to be done shall each be guilty of an offence against this Act, and shall be jointly and severally liable for the expenses incurred by the Council, and such expenses may be recovered in any court of competent jurisdiction or in a court of petty sessions as a civil debt recoverable summarily.

Penalties on
persons plac-
ing buildings
or encroach-
ments on
sewers.

(2) Every person who —

- I. Knowingly erects or places any obstruction, annoyance, or encroachment in, upon, over, or under any sewer: or
- II. Obstructs, fills in, or diverts any sewer or drain without the previous consent, in writing, of the Council—

shall, in addition to any other proceeding to which he may be liable therefor, be liable to a penalty not exceeding Twenty Pounds for every such offence, and to a further daily penalty not exceeding Five Pounds.

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

Penalty on
persons sweep-
ing dirt into
sewers.

36 Every person who sweeps, rakes, or places any house refuse, soil, rubbish, or filth, or any other thing into or in any sewer or drain, or over or contiguous to any grate communicating with any such sewer or drain, or into any dock or inlet communicating with the mouth of any such sewer or drain or

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into which any such sewer or drain discharges its contents, or into any river contiguous thereto, shall for every such offence be liable to a penalty not exceeding Ten Pounds. A.D. 1930.

37 Every person who—

- I. Takes up, removes, demolishes, or otherwise interferes with, or who causes to be taken up, removed, demolished, or interfered with, any sewer or part of a sewer without having previously obtained the permission, in writing, of the Council:
- II. Wilfully damages any sewer, bank, defence-wall, penstock, grating, gully, side-entrance, tide-valve, flap, work, or thing vested in the Council:
- III. Causes or permits to be discharged into any sewer any solid or liquid (other than ordinary domestic sewerage) liable to cause the generation of gases injurious to human life or health, or to cause injury to the sewers or purification works, or to lessen the carrying capacity of the sewers or to interfere with the treatment of the sewerage:
- IV. Causes or permits to flow or pass, or to be carried from any manufactory or business, or other premises of any such person into any sewer or any drain or pipe communicating therewith—
 - (a) Any benzine, naphtha, ether, or carbon bisulphide; or
 - (b) Any inflammable or explosive materials which will not readily mix with water; or
 - (c) Any other material or materials which separately or in conjunction or in combination with water or sewerage or other materials are liable to form inflammable or explosive compounds; or
- V. Does any act by which the sewerage or drainage of the sewerage district or any part of such district may be obstructed or injured—

Penalties on persons interfering with sewers.

shall for every such offence be liable to a penalty not exceeding Twenty Pounds, and to a further daily penalty not exceeding Five Pounds.

38—(1) Every occupier of any premises who prevents the owner thereof from carrying into effect, with respect to such premises, any of the provisions of this Act or any order of the Council made in pursuance thereof shall be liable to a daily penalty not exceeding Five Pounds.

Penalty on occupier disobeying Act or orders of sewerage authority.

(2) If the occupier of any premises when requested by or on behalf of the Council to state the name and address of the owner of the premises occupied by him, refuses or wilfully

Or refusing to give name of owner.

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omits to disclose, or wilfully mis-states the same, any justice may summon the party to appear before a court of petty sessions at a time and place to be appointed in such summons.

(3) If the party so summoned neglects or refuses to attend at the time and place so appointed, or if he does not show good cause for such refusal, or if such wilful omissions or mis-statements are proved the court before which such party is so summoned may impose upon the offender a penalty not exceeding Twenty Pounds.

(4) Every such owner during the continuance of such refusal, and provided he satisfies the court that he has *bona fide* endeavoured to comply with the provisions of this Act, shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such works.

Penalty for offence against this Act.

39—(1) Every person guilty of an offence against this Act shall, for every such offence, be liable to the penalty expressly imposed by this Act or by the by-law or regulation.

(2) If no penalty is so expressly imposed he shall be liable to a penalty not exceeding Twenty Pounds, and to a daily penalty not exceeding Five Pounds.

Recovery of penalties.

40—(1) Every penalty under this Act may be recovered and enforced in the manner expressly provided in this Act or in the by-law or regulation.

(2) If the manner of recovery or enforcement is not so provided it may be recovered and enforced in any court of petty sessions.

Penalties recoverable by the Council.

41 Save as otherwise expressly provided—

I. All penalties imposed by this Act, or by any by-law or regulation thereunder for offences committed within the sewerage district, or in respect of any part of the undertaking of the Council, may be recovered by the Council or by any person thereto authorised by it:

II. The said penalties may be recovered from the person actually committing the offence or the person causing the commission of the offence, or by whose order or direction the offence was committed.

Recovery of penalty not to prejudice right to take other proceedings.

42—(1) Every penalty imposed upon any person by this Act or by any by-law or regulation thereunder, shall be without prejudice to the right of the Council to recover from such person—

I. Any sum for damage sustained by it through his act or default:

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- II. The costs and expenses incurred by it in remedying any such damage: and A.D. 1930.
- III. The value of any water wasted, misused, unduly consumed, illegally diverted, or illegally taken by him.
- (2) The payment of any such penalty shall not bar or affect the right of the Council to bring any action, or to take any proceedings, against such person.

43—(1) In any proceedings for the recovery of penalties under this Act or under any by-law or regulation thereunder the information or complaint, where not required to be made on oath may be laid and made in the name of the Council, and in any case may be laid and made by the council clerk or some officer of the Council appointed generally or in respect of any special proceeding, or by any member of the police force. Informations,
&c., in name of
Council.

(2) The council clerk or other officer shall be reimbursed out of the sewerage account any damages, costs, charges, or expenses to which he is put or with which he is chargeable by reason of anything contained in this section. Reimburse-
ment of
expenses, &c.

SCHEDULE.

DESCRIPTION OF THE BOUNDARIES OF THE DEVONPORT SEWERAGE DISTRICT.

- (1) Commencing at a point at low water mark on western side of River Mersey, thence going westerly across the Esplanade, North-Western Railway Line and Main-road to a point on west side of Esplanade, distant southerly (334 links) from Turton-street, continuing westerly (260 links) along south boundary of estate of late Hannah Murray.
- (2) Thence southerly (313 links) along each boundary of land owned by V. Denning and R. F. Johnston respectively.
- (3) Thence westerly (277 links) along south boundary of R. F. Johnston and across Wenvoe-street to west side of that street.
- (4) Thence southerly (89 links) along west side of Wenvoe-street.
- (5) Thence westerly (326 links) along south side of land owned by John Andrews.
- (6) Thence southerly (176 links) along east side of land owned by W. J. Mawer, to Hilltop-avenue.
- (7) Thence westerly (969 links) along north side of Hilltop-avenue, crossing Rooke and Fenton streets.
- (8) Thence northerly (681 links) along west boundaries of land owned by W. Douglas and L. M. Chettle respectively; across Henry-street and along west boundaries of land owned by G. N. Levy, E. Wilkins, and Mrs. Morse respectively.

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- (9) Thence westerly (100 links) along south boundary of land owned by D. Young.
- (10) Thence northerly (381 links) along west boundary of land of D. Young, across Turton-street, and along west boundary of land of Mrs. Chellis.
- (11) Thence westerly (250 links) along south boundaries of land of W. Bartlett and W. Mitcham respectively.
- (12) Thence northerly (406 links) along west boundary of land of W. Mitcham, across Smith-street, and along west boundary of land of C. Layton.
- (13) Thence westerly (200 links) along south boundaries of land of L. Newman and G. Rice respectively.
- (14) Thence northerly (420 links) along west boundary of land of G. Rice, across Harold-street, and along west boundary of land of H. E. Haslock.
- (15) Thence westerly (295 links) along south boundaries of Presbyterian Church Manse and land of Mrs. Baker and G. E. King respectively.
- (16) Thence northerly (467 links) along west boundary of land of G. E. King, across Archer-street, and west boundary of land of E. Graver.
- (17) Thence westerly (75 links) along south boundary of land of C. J. Plapp.
- (18) Thence northerly (594 links) along west boundary of land of C. J. Plapp, crossing Steel-street, and including portion of land owned by the Roman Catholic Church.
- (19) Thence westerly (25 chains 51 links) through portion of land owned by the Roman Catholic Church, along south boundaries of land of W. H. Balcomb, O. McCall, W. Davey, W. Buck, crossing Gunn-street respectively, and along south boundaries of land of J. Witham, F. Doran, F. Carter, E. Williams, O. McCall respectively, and through land of O. McCall to west side of William-street.
- (20) Thence northerly (305 links) along west side of William-street.
- (21) Thence westerly (516 links) along south boundary of land of C. Mulligan.
- (22) Thence northerly (1003 links) through land of C. Mulligan and the Education Department (high school) to southern boundary of Best-street.
- (23) Thence westerly (224 links) along south boundary of Best-street.
- (24) Thence northerly (13 chains 75 links), crossing Best-street, and along boundaries of land of Devonport Council, E. Code, A. Bessell, J. Stephens, C. Woodward, J. Stephens respectively, crossing Oldaker-street, and along west boundary of War Service Homes (Repatriation).
- (25) Thence easterly (15 chains 80 links) along north boundary of War Service Homes, crossing William-street, and along south boundaries of C. Chandler and M. Hardy respectively.
- (26) Thence northerly (14 chains 48 links) through land of M. Hardy, crossing Parker-street, through land of L. B. Oppenheim and H. A. Nichols respectively to north side of Madden-street.
- (27) Thence westerly (10 chains 95 links) along north side of Madden-street, crossing William-street.
- (28) Thence northerly (802 links) through land of F. H. Haines, and along west boundary of land of Mrs. C. A. Blake.
- (29) Thence easterly (995 links) along south side of Nichols-street, crossing William-street.
- (30) Thence northerly (300 links) crossing Nichols-street, and along west side of J. R. Mercer, and through land of E. Raymond.

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- (31) Thence easterly (17 chains 7 links) through land of E. Raymond, crossing Gunn-street, and along north boundaries of land of A. C. Dean, P. O'Dea, G. Laycock, W. Sherriff respectively, crossing the north-western railway, through land of C. White and — Pedder respectively. A.D. 1930.
- (32) Thence northerly (10 chains 8 links) along west boundary of land of D. Loane, through land of A. C. Dean, crossing George-street, through land of T. Byard.
- (33) Thence easterly (10 chains 57 links) through land of T. Byard, along north boundaries of land of Mrs. Williams and H. Williams respectively, crossing Fenton-street, and through land of G. Barker.
- (34) Thence northerly (10 chains 9 links) through land of G. Barker, and along west boundary of land of Mrs. Morey, crossing James-street, and through land of J. McDonough.
- (35) Thence easterly (about 14 chains) through land of J. McDonough, along the north boundaries of land of Mrs. White and Mrs. Lane respectively, to low water mark on River Mersey.
- (36) Thence southerly along low water mark on west side of River Mersey to the point of commencement.

