

AGENT-GENERAL.

No. 58 of 1966.

AN ACT to amend the *Agent-General Act 1911*.

[12 December 1966.]

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:—

Short title,
citation, and
commence-
ment.

1—(1) This Act may be cited as the *Agent-General Act 1966*.

(2) The *Agent-General Act 1911*, as subsequently amended, is in this Act referred to as the Principal Act.

(3) This Act shall be deemed to have commenced on the first day of September 1966.

Salary of
Agent-
General.

2 Section seven of the Principal Act is amended by omitting subsections (1) and (1A) thereof and substituting therefor the following subsection:—

“(1) The Agent-General shall be paid a salary at the rate of eight thousand dollars a year or at such other rate as is specified in an order under subsection (1B) of this section.”.

UNDERGROUND WATER.

No. 59 of 1966.

AN ACT to make provision for the protection of underground water supplies.

[22 December 1966.]

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.

Short title.

1 This Act may be cited as the *Underground Water Act 1966*.

Interpre-
tation.

2—(1) In this Act, unless the contrary intention appears—
“advisory committee” means the Underground Waters Contamination Advisory Committee established under section five;

- “bore” means a hole put down in the earth by a drill or other mechanical means;
- “Director” means the Director of Mines;
- “enforcement notice” means a notice served under subsection (2) of section thirteen;
- “licence” means a licence granted under section seven;
- “protected area” means an area that is declared to be a protected area under section six;
- “underground water” means water that is under the surface of the earth, other than water that has been brought beneath the surface of the earth through any drain, pipe, structure, or other work and is for the time being contained in any such drain, pipe, structure, or other work;
- “underground work” means a work that is entirely beneath the surface of the earth and so much of any other work that is below the surface of the earth, and includes a bore or well;
- “warden’s court” means a court of mines constituted under the *Mining Act 1929*;
- “well” means a shaft or hole made in the earth for the purpose of obtaining underground water.

(2) For the purposes of this Act—

- (a) the depth of a bore shall be taken to be the distance measured along the centre of the bore from the collar of the bore to the bottom of the bore; and
- (b) the depth of an underground work (other than a bore) shall be taken to be the vertical distance between the lowest point of that work and the surface of the earth directly above that point.

(3) Where the surface of the earth has been disturbed at any place by the carrying out of any works the surface of the earth at that place shall, for the purposes of subsection (2) of this section, be taken to lie at the level of the surface of the earth at that place before it was disturbed by the carrying out of works.

(4) Subject to subsection (3) of this section, where the surface of the earth is at any point covered by water the level of the surface of the earth below that water shall, for the purposes of subsection (2) of this section, be treated as the level of the surface of the earth at that point.

(5) For the purposes of this Act a person is responsible for an underground work if—

- (a) he is the person constructing or making that underground work or causing it to be constructed or made;
- (b) he has a right to take or abstract water or any other material from that underground work; or
- (c) he is in occupation of that underground work.

3 The provisions of this Act bind the Crown.

Application of
Act to the
Crown.

General
purposes
of Act.

4 The powers and duties conferred by this Act on any authority or person shall be exercised in a manner that in the opinion of that authority or person is best calculated to effect the following purposes, namely:—

- (a) The prevention of undue depletion of the supplies of underground water and of the waste of underground water;
- (b) The prevention of contamination of underground water; and
- (c) The equitable distribution of underground water.

Underground
Waters Con-
tamination
Advisory
Committee.

5—(1) The Minister shall appoint a committee to be called the Underground Waters Contamination Advisory Committee.

(2) The advisory committee may make recommendations to the Minister on any matters related to the contamination, or the protection from contamination, of underground waters, and shall investigate and report to him on such matters relating to underground waters as he may refer to it.

(3) The advisory committee shall consist of such persons as the Minister considers suitable, and shall include—

- (a) an officer of the Department of Mines;
- (b) an officer of the Department of Health Services;
- (c) an officer of the Department of Agriculture;
- (d) a member or officer of the Rivers and Water Supply Commission; and
- (e) a person appointed to represent the interests of persons engaged in primary production after consultation by the Minister with such associations as appear to him to represent the persons so engaged in this State.

(4) The Minister may appoint a person to be a member of the advisory committee for the purpose of the consideration of any particular matter, and where the Minister is of opinion that that matter particularly affects any authority or any body or class of persons that person may be so appointed on the nomination of that authority or body or of any association or organization that in his opinion represents the interests of that authority or body or class of persons.

(5) The members of the advisory committee hold office during the pleasure of the Minister.

(6) The members of the advisory committee may appoint one of their number as chairman of the committee.

(7) The chairman of the advisory committee shall preside at all meetings of the committee at which he is present and, if he is absent or there is no chairman, such one of the other members present at the meeting, as they may choose, shall preside at the meeting.

(8) The chairman or other member presiding at a meeting of the advisory committee may vote on any matter before the meeting.

(9) In the event of an equality of votes on any matter before a meeting of the advisory committee the matter stands adjourned to the next meeting of the committee.

(10) Three members of the advisory committee constitute a quorum at any meeting of the committee.

(11) The advisory committee may act notwithstanding any vacancy in its membership as long as a quorum remains.

(12) Subject to this Act, the advisory committee may regulate its own proceedings.

(13) The Minister may pay to any member of the advisory committee (not being an officer within the meaning of the *Public Service Act 1923*) such fees and allowances as the Governor may approve.

PART II.

PROTECTED AREAS.

6—(1) If the Governor is satisfied that the taking of measures to effect all or any of the purposes specified in section four is of particular importance in any area, he may, by order, declare that area to be a protected area for the purposes of this Act. Protected areas.

(2) An order made under this section shall be laid before each House of Parliament within the first ten sitting days of that House after it is made, and if either House of Parliament passes a resolution, of which notice is given within the first fifteen sitting days of that House after the order is laid before it, that the order be disallowed, the order thereupon ceases to be of effect except as regards anything done thereunder before the passing of the resolution.

7—(1) Subject to this Act, a licence under this section is required for— Licences for bores and wells.

- (a) the sinking or extension of a bore or well in a protected area to a depth of more than forty feet; and
- (b) the carrying out of any work for the repair, maintenance, alteration, or extension of a bore or well in a protected area that is more than forty feet deep,

and such a licence is so required notwithstanding that the carrying out of the operation is authorized pursuant to an enactment in any Act other than this Act.

(2) The Minister may, by order, exempt any operations from the provisions of subsection (1) of this section.

(3) The Director may grant a licence under this section authorizing the carrying out of the operations specified in the licence subject to such conditions as may be prescribed therein.

(4) The conditions that may be prescribed in a licence authorizing the carrying out of an operation may be—

- (a) conditions regulating the carrying out of the operation;
- (b) conditions limiting the time within which the operation may be carried out;
- (c) conditions regulating or limiting the obtaining, use, or disposal of any underground water that is, or is likely to be, obtained as a result of the carrying out of the operation or from the bore or well in relation to which the operation is carried out, or of any underground water the flow or quality of which is, or is likely to be, affected by the carrying out of the operation;
- (d) conditions regulating the use of any bore or well resulting from the carrying out of the operation or of the bore or well in relation to which the operation is carried out or requiring or regulating the maintenance of that bore or well; or
- (e) conditions requiring notification to be given with respect to the carrying out of any operation or the failure to carry out any operation.

(5) The conditions referred to in subsection (4) of this section may confer powers and discretions on the Director with regard to the matters to which they relate.

(6) A licence may, before the operations authorized by the licence have been commenced, be surrendered to the Director by the person on whose application it was granted, and, on being so surrendered, ceases to be of effect.

(7) A person responsible for a bore or well may apply to the Director for a variation in the conditions prescribed in a licence relating to that bore or well and, on such an application, the Director may make that variation or such other variation as may be agreed between him and that person.

(8) A person who is aggrieved by the refusal of the Director to grant a licence under this section or the prescription of any conditions in a licence so granted, or by the refusal of the Director to make a variation in any such conditions, may appeal to a warden's court.

(9) On an appeal under this section the court may, unless it dismisses the appeal, by order, direct a licence to be granted in such form as may be specified in the order or vary the conditions prescribed in the licence in respect of which the appeal is brought.

(10) The Director shall comply with an order made by a court under subsection (9) of this section, and where the conditions prescribed in a licence are varied under that subsection those conditions have effect as so varied.

(11) Subject to subsection (12) of this section, no person shall carry out, or cause or allow to be carried out, any operation for the carrying out of which a licence is required

under this section unless that operation is carried out in accordance with the authority granted by such a licence and in compliance with the conditions prescribed therein.

(12) Where notification is given to the Director that a bore is being sunk nothing in subsection (11) of this section prohibits, during a period of forty-eight hours from the giving of that notification or such longer period as the Director may allow, the carrying on of operations for the sinking of that bore.

(13) Where the authority granted under this section for the carrying out of any operation is subject to conditions prescribed pursuant to subsection (4) of this section, the person responsible for the bore or well resulting from the carrying out of that operation or in relation to which the operation is carried out shall secure that those conditions are complied with.

(14) A person who contravenes the provisions of subsection (11) or subsection (13) of this section is guilty of an offence and is liable to a penalty of five hundred dollars.

8—(1) None of the following operations, namely:—

Boring by
certificated
drillers.

(a) The sinking or extension of a bore in a protected area to a depth of more than forty feet; and

(b) The carrying out of any work for the repair, maintenance, alteration, or extension of a bore in a protected area that is more than forty feet deep,

shall, without the consent of the Director, be carried out otherwise than by, or under the supervision of, a person holding a certificate under this section stating that he is authorized to carry out that operation.

(2) For the purposes of this section an operation shall not be regarded as being carried out under the supervision of a person unless that person is present while that operation is being carried out.

(3) Where an operation is carried out contrary to subsection (1) of this section any person responsible for the bore in relation to which it is carried out is guilty of an offence and liable to a penalty of one hundred dollars.

(4) Where the Director, on the application of any person, is satisfied that that person is competent to carry out any operations for the sinking, extension, repair, or maintenance of a bore, he may issue to that person, for the purposes of this section, a certificate specifying the operations which the Director is so satisfied he is competent to carry out and stating that he is authorized to carry out those operations.

(5) If within a period of fourteen days of the making of an application for the grant of a certificate under this section, or within such longer period as may be agreed between the Director and the applicant, the Director has not granted him a certificate under this section, the Director shall be deemed to have refused to grant him the certificate and to have notified him of that refusal at the expiration of that period.

(6) Without prejudice to the generality of the provisions of subsection (4) of this section, the operations referred to in a certificate issued under that section may be described with reference to the nature or size of the bore in respect of which they are carried out and the type or nature of the machinery or equipment used for carrying out the operations.

(7) If the Director is satisfied that a person holding a certificate issued under subsection (4) of this section is, or has become, incompetent or incapable of carrying out any of the operations specified in the certificate he may revoke that certificate.

(8) Any person who is aggrieved by the refusal of the Director to grant him a certificate under this section authorizing him to carry out any operation or by the revocation of such a certificate may appeal to a warden's court and on such an appeal, the court, unless it dismisses the appeal, may, by order—

- (a) direct the Director to issue to that person a certificate stating that he is authorized to carry out such operations as the court may specify; or
- (b) quash the decision to which the appeal relates.

(9) The Director shall comply with any order made under subsection (8) of this section.

(10) Where a certificate is revoked under this section the person to whom it was issued shall, within seven days of a demand made to him by or on behalf of the Director, deliver that certificate to the Director.

Penalty: Fifty dollars.

Waste of
water from
bores and
wells.

9—(1) The person responsible for a bore or well in a protected area—

- (a) shall secure that the bore or well is so constructed or equipped that at all times the flow of water therefrom may readily be stopped and regulated; and
- (b) shall not cause or allow any water obtained therefrom to be wasted.

(2) For the purposes of subsection (1) of this section water that is obtained from a bore or well shall be regarded as having been wasted if it is not used for some useful purpose, or if more of the water is taken or allowed to flow from the bore or well than is reasonably required for that purpose.

(3) A person who contravenes the provisions of subsection (1) of this section is guilty of an offence and liable to a penalty of five hundred dollars.

Control of
underground
works
generally.

10—(1) Where an underground work in a protected area is more than forty feet deep and the Director considers that measures or precautions should be taken in relation to that work for any purposes referred to in section four he may serve a notice on the person responsible for that work requiring those measures or precautions to be taken.

(2) Without prejudice to the generality of subsection (1) of this section, a notice served under that subsection in relation to an underground work may—

- (a) require or prohibit the carrying out of any work or operation, or contain requirements regulating the carrying out of any work or operation;
- (b) contain requirements prohibiting, regulating, or limiting the obtaining, use, or disposal of underground water; or
- (c) contain requirements regulating the use of the underground work,

and the requirements contained in the notice may be requirements that confer powers and discretions on the Director in relation to the manner in which they are complied with.

(3) The Director may by notice in writing served on the person responsible for an underground work revoke a notice served under subsection (1) of this section.

(4) Where a notice has been served under this section in respect of an underground work the person responsible for that work shall secure that the requirements of the notice are complied with.

Penalty: Five hundred dollars.

(5) A person aggrieved by a notice under this section may appeal to a warden's court.

(6) On an appeal under this section, the court, unless it dismisses the appeal, may quash or vary the notice to which the appeal relates.

(7) A notice under this section shall not require the doing of anything that, if the notice had not been served, would constitute an offence under section seven, but the subsistence of any right or authority under any enactment does not afford any grounds for failure to comply with the requirements of such a notice.

PART III.

GENERAL AND SUPPLEMENTARY.

11—(1) No person shall cause or allow to be introduced into any hole, cavity, or excavation in the earth, or into any underground work, any matter, that consequent upon its being so introduced, causes the contamination of, or is likely to cause the contamination of, any underground water.

Deleterious matter in underground works, &c.

Penalty: Five hundred dollars.

(2) This section does not prohibit the carrying out of any work or operation that is carried out in order to comply with the requirements of this Act or is carried out with the approval in writing of the Director.

12—(1) No person shall sink, or cause to be sunk, a bore to a greater depth of forty feet unless previous notice in writing has been given to the Director of the intention so to do specifying the place at which it is proposed to sink the bore.

Information with respect to bores.

(2) Where in the sinking of a bore to a greater depth than forty feet water is struck the person responsible for that bore shall ensure that, as soon as practicable after the water is struck, the Director is informed in writing of the fact and of the depth of the bore at which the water was so struck.

(3) On the completion of the sinking of a bore to a greater depth than forty feet the person responsible for the bore shall ensure that the Director is, as soon as practicable, informed in writing of the level of the water in the bore and furnished with a detailed account of the material obtained during the sinking of the bore.

(4) The Director may give directions requiring any core or materials obtained in the sinking of a bore to a greater depth than forty feet to be labelled in such manner, and preserved for such period and in such place, as may be specified in the directions, and the person responsible for that bore shall ensure that those directions are complied with.

(5) The directions referred to in subsection (4) of this section shall be given in writing and may be so given to any person who is responsible for the bore or to the person by whom a notice was served for the purposes of subsection (1) of this section in respect of the bore.

(6) Nothing in subsection (4) of this section requires the preservation of any material that is required for assay, or, subject to subsection (7) of this section, the preservation of any core or other materials for a period of longer than three months.

(7) It shall be sufficient compliance with the directions given under subsection (4) of this section requiring any core or materials to be preserved if that core or those materials are delivered to the Director.

(8) Where any core or other materials are required to be preserved under this section, the Director, or any other person authorized by him in writing, may examine that core or those materials and take specimens thereof for the purposes of assay or treatment, and for that purpose may enter any premises or place where that core or those materials are kept.

(9) Where the person responsible for a bore or well causes or allows an analysis to be made of any water obtained from that bore or well he shall, as soon as practicable after receiving a report of the results of the analysis, forward a copy thereof to the Director.

(10) Without prejudice to the other provisions of this section, the Director may, by notice in writing, require—

- (a) any person who pursuant to subsection (1) of this section has given notice to him in respect of a bore; or
- (b) any person who is responsible for a bore that is more than forty feet deep or a bore that is being sunk to a greater depth than forty feet,

to supply him with such information with respect to the bore or the sinking thereof as may be specified in the notice and the person on whom the notice is served shall supply the Director with that information.

(11) References in this section to the sinking of a bore to a greater depth than forty feet shall be construed as including references to the extending of an existing bore to a greater depth than forty feet.

(12) A person who contravenes or fails to comply with the provisions of this section is liable to a penalty of one hundred dollars.

(13) This section does not apply to a borehole to which section sixty-two A of the *Mines and Works Regulation Act 1915* applies.

13—(1) For the purposes of this section a default means a contravention of any of the provisions of Part II or section eleven. Remedying defaults.

(2) Where the Director is satisfied that a default has occurred he may serve notice on the responsible person specifying the default and the operations that he considers should be carried out for the purpose of remedying the default or for preventing or minimizing any waste, contamination, or alteration in the distribution, of underground water that has arisen, or is likely to arise, as a consequence of the default.

(3) Subject to subsection (4) of this section, where an enforcement notice has been served the Director may cause to be carried out the operations specified therein.

(4) No operations shall be carried out under subsection (3) of this section in pursuance of an enforcement notice unless, if an appeal is brought under this Act in respect of that notice, that appeal has been determined, or, in any other case, the time limited for the bringing of such an appeal has expired, unless the Director is of opinion that the carrying out of those operations is urgently necessary to prevent, minimize, or remedy serious wastage of, or serious contamination to, any underground water.

(5) Subject to subsections (9) and (10) of this section, the Director may recover as a debt due to the Crown from the responsible person the expenses reasonably incurred in carrying out any operations under this section.

(6) A person aggrieved by an enforcement notice may appeal to a warden's court.

(7) On an appeal under this section, the court, unless it dismisses the appeal, may, by order, quash or vary the enforcement notice to which the appeal relates and, where the court varies the notice, the notice has effect as so varied.

(8) Where an appeal is brought in respect of an enforcement notice in respect of an alleged contravention of any of the provisions of section seven or section ten the court may,

in hearing and determining that appeal, disregard any objection to the notice that, in the opinion of the court, amounts in substance to an objection to the conditions prescribed in the licence, or to the directions contained in the notice served under section ten, in relation to which the default is alleged to have occurred.

(9) Where a warden's court quashes or varies an enforcement notice and any operations have, before the court makes its determination, been carried out in pursuance of the notice, the court may give directions limiting or restricting the liability of any person under subsection (5) of this section in relation to the expenses incurred in carrying out operations under the notice, or relieving him from any such liability, and the rights of the Director under that subsection have effect subject to those directions.

(10) Where an appeal is brought under this section in respect of an enforcement notice served in respect of an alleged contravention of section eleven and the court is satisfied that the default did not arise from the act or neglect of the appellant or any person through whom he derives the right or title by virtue of which he is the responsible person in respect of the default, the court may give directions limiting or restricting his liability under subsection (5) of this section in relation to the expenses incurred in carrying out operations under the notice, or relieving him from any such liability, and the rights of the Director under that subsection have effect subject to those directions.

(11) For the purposes of this section a person is a responsible person in respect of a default if—

(a) where the default occurs in relation to an underground work, he is the person responsible for that underground work; or

(b) in any other case, he is the occupier of the land on which the default occurred,

or if, where the default consists of a contravention of the provisions of section eleven, he is the person by whom, or with whose permission or at whose direction, the default was committed.

**Procedure
on appeals.**

14—(1) A warden's court has jurisdiction to hear an appeal under this Act the subject-matter of which is situated or arose within the district of that court.

(2) An appeal to a warden's court under this Act shall be brought by lodging, within the prescribed period, a notice of appeal, specifying the matter in respect of which the appeal is brought and the grounds on which it is made, with the clerk of the court having jurisdiction to hear the appeal, and a copy of that notice with the Director.

(3) For the purposes of subsection (2) of this section the "prescribed period" means a period of thirty days, or such longer period as may be agreed in writing between the Director and the appellant, from—

- (a) in the case of an appeal under section seven, the date on which the decision of the Director to which the appeal relates was notified by the Director to the person on whose application the decision was made;
- (b) in the case of an appeal under section eight, the date on which the decision of the Director to which the appeal relates was notified by the Director to the appellant; and
- (c) in the case of an appeal under section ten or section thirteen, the date on which the notice in respect of which the appeal is brought was served.

(4) Subject to this Act the provisions of the *Mining Act 1929* relating to wardens' courts have effect as if the jurisdiction conferred on those courts by this Act was conferred by that Act.

(5) An appeal under this Act shall, if the warden so decides or the Director or the person bringing the appeal so requests, be heard and determined before the warden and two assessors, but, in any other case, shall be heard and determined by the warden sitting alone.

(6) Section one hundred and six, section one hundred and eight and Part XII of the *Mining Act 1929* do not apply to appeals under this Act.

15 A person authorized in writing by the Director may at any reasonable time enter any land for the purpose of inspecting any underground work or for the purpose of ascertaining whether any default within the meaning of section thirteen has occurred, or is likely to occur, or whether the provisions of this Act are being complied with in relation to any works on or under that land. Inspection.

16—(1) Where under this Act a notice or other document is authorized or required to be served on, or given to, any person that notice or document may be served on or given to that person— Service of notices, &c.

- (a) by delivering it to him personally;
- (b) by leaving it at his usual or last-known place of abode or business; or
- (c) by sending it by registered post addressed to him at his usual or last-known place of abode or business.

(2) Where such a notice or other document as is referred to in subsection (1) of this section is authorized or required to be served on, or given to, the person responsible for any underground work, that notice may be served by handing it to some person apparently over the age of sixteen years employed in or about that underground work.

(3) Where such a notice or other document as is referred to in subsection (1) of this section is authorized or required to be served on, or given to, the person responsible for any underground work, or the occupier of any land, and that person cannot, after reasonable inquiry, be found, the notice or other document may be served or given by fixing it in some conspicuous position on or near that underground work, or on that land, as the case may be.

(4) Where under this Act a notice or other document is authorized or required to be served on, or given to, a person responsible for any underground work, or the occupier of any land, it may, if the name of that person is not known, be addressed to him, without further description, as "the person responsible" for that underground work, or "the occupier" of that land, as the case may be, in each case describing the underground work or land in a manner sufficient to identify it.

Regulations.

17—(1) The Governor may make regulations for the purposes of this Act, and, without prejudice to the generality of the foregoing provisions of this section, those regulations may—

- (a) prescribe the form of any licence or other document authorized or required to be issued or used for the purposes of this Act;
- (b) prescribe the manner in which any application is to be made under this Act;
- (c) prescribe fees to be paid on the making of any application for, or the grant or issue of any licence or certificate under this Act; and
- (d) regulate the proceedings on any appeal under this Act.

(2) Regulations made for the purposes of paragraph (d) of subsection (1) of this section may modify the provisions of the *Mining Act* 1929 in their application to appeals under this Act.

PUBLIC SERVICE (EQUAL PAY).

No. 60 of 1966.

AN ACT to make provision for the application to the Public Service of the principle of equal pay, as between the sexes, for the performance of work of the same or a like nature and of equal value. [22 December 1966.]

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:—