

TASMANIA.

WATER, SEWERAGE, AND DRAINAGE
BOARD ACT 1944.

ANALYSIS.

PART I.—PRELIMINARY.

1. Short title and commencement.
2. Interpretation.

PART II.—THE WATER, SEWERAGE, AND DRAINAGE BOARD.

3. Constitution of the board.
4. Incorporation of the board.
5. Proceedings of the board.

PART III.—DUTIES, POWERS, AND FUNCTIONS OF THE BOARD.

6. Duties, powers, and functions of the board.
7. Works on account of State departments and authorities.

PART IV.—DUTIES OF LOCAL AUTHORITIES IN RELATION TO THE CONSTRUCTION OF WORKS TO WHICH THIS ACT APPLIES.

8. Local authorities to prepare and submit schemes to board.

9. Power to local authorities to request board to prepare schemes.
10. Local authorities not to borrow moneys or construct works except when approved.
11. Act not to apply to Hobart or Launceston.
12. Local authorities to take steps to purify, &c., water when directed by the board.
13. Directions as to rating, &c., by local authority.

PART V.—MISCELLANEOUS AND FINANCIAL.

14. Officers of the board.
15. Board to keep minutes, accounts, &c.
16. Expenses of board.
17. Power of board to recommend payment of subsidies to local authorities.
18. Expenses of local authorities.
19. Debts due to board.
20. Power to Hydro-Electric Commission to determine charges for water supplied in certain cases.
21. Rights of ratepayers preserved.
22. Regulations.





1944.

ANNO SEPTIMO ET OCTAVO

GEORGII VI. REGIS.

No. 96.



AN ACT to provide for the regulation, control, and supervision of works for the Supply of Water and for the provision of Irrigation, Sewerage, and Drainage facilities; for the constitution of a Water, Sewerage, and Drainage Board; and for matters incidental thereto. [14 July, 1944.]

A.D.
1944

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—(1) This Act may be cited as the *Water, Sewerage, and Drainage Board Act 1944*.

Short title
and com-
mencement.

Water, Sewerage, and Drainage Board.

A.D. 1944. (2) This Act shall come into operation on a date to be fixed by proclamation.

Interpretation. **2** In this Act, unless the contrary intention appears—

“board” means the Water, Sewerage, and Drainage Board constituted under this Act;

“Commission” means the Hydro-Electric Commission constituted under the *Hydro-Electric Commission Act 1929**;

“construction,” used in relation to any works to which this Act applies, includes any alteration of, or addition to, any existing works; and “construct” and “constructed” have corresponding interpretations;

“drainage facilities” means any scheme or system making provision for general drainage, but does not include alterations of or casual additions to any existing scheme or system.

“local authority” means the municipal council of any municipality, and includes any board of trustees or other body established under any Act relating to the supply of water, or the provision of irrigation, sewerage, or drainage facilities;

“works to which this Act applies” means any works or installations constructed for the purpose of supplying water, or of providing irrigation, sewerage, or drainage facilities, to or in any area or place, except in a city.

PART II.

THE WATER, SEWERAGE, AND DRAINAGE BOARD.

Constitution of the board.

3—(1) There shall be constituted for the purposes of this Act a board, to be called the Water, Sewerage, and Drainage Board, which shall consist of three persons, appointed as provided by this section.

(2) The members of the board shall be appointed by the Governor, and shall comprise—

(a) a person who shall be appointed as the chairman of the board;

(b) a civil engineer (in this section referred to as “the engineering member”) experienced in matters relating to the construction of works to which this Act applies and the preparation of schemes therefor; and

(c) a person (in this section referred to as “the finance member”) having a practical knowledge of State and municipal finance and statistics.

20 Geo. V. No. 83, as amended by 21 Geo. V. No. 53, 26 Geo. V. No. 73, 1 Geo. VI. No. 4, 1 Geo. VI. No. 67, 2 Geo. VI. No. 21, 3 & 4 Geo. VI. No. 65, 5 Geo. VI. No. 8, 5 Geo. VI. No. 55, and by Statute Law Revision. (See Reprint of Statutes, Vol. III., page 699.)

Water, Sewerage, and Drainage Board.

(3) The members of the board shall hold office for such term respectively as the Governor may determine and as may be specified in the instrument of appointment, but not exceeding— A.D. 1944.

- (a) in the case of the chairman, five years;
- (b) in the case of the engineering member, four years;
- (c) in the case of the finance member, three years.

(4) An officer of the Public Service, if qualified, may be appointed as a member of the board, and may hold office as a member thereof in conjunction with his office as an officer of the Public Service.

(5) No member of the board, as such, shall be subject to the provisions of the *Public Service Act 1923*.*

(6) Each member of the board shall be entitled to receive—

- (a) such remuneration, if any, as the Governor may determine and as may be specified in the instrument of appointment; and
- (b) such travelling expenses and other out of pocket expenses as may be prescribed.

(7) Where any casual vacancy occurs in the office of any member, the Governor may appoint an eligible person to fill such office, and the person so appointed shall hold office for the unexpired portion of the term of office of the member in whose place he is appointed.

(8) The appointment of the board shall be notified in the *Gazette*, and on publication of the notification the board shall be deemed to be constituted.

4—(1) The board shall be a body corporate, having perpetual succession and a common seal, and may sue and be sued by its corporate name. Incorporation
of the board.

(2) The seal of the board shall not be affixed to any document except by order of the board, and every sealing shall be authenticated by the signatures of one member and the secretary.

5—(1) Any two members shall constitute a quorum for the transaction of the business of any meeting of the board, and the board may function, notwithstanding any vacancy in its membership, so long as a quorum remains. Proceedings
of the board.

(2) The chairman, or, in his absence, a member appointed by those present, shall preside at all meetings of the board and shall have a deliberative vote.

(3) Any question arising at any meeting of the board shall be determined by the votes of the members present and voting on the question, and, in the event of an equality of votes, the

13 Geo. V. No. 35, as amended by 18 Geo. V. No. 18, 26 Geo. V. No. 61, 2 Geo. VI. No. 29, 4 Geo. VI. No. 18, 5 Geo. VI. No. 6, 5 Geo. VI. No. 64, 6 Geo. VI. No. 9, 6 Geo. VI. No. 54, 7 Geo. VI. No. 18. and by Statute Law Revision. (See Reprint of Statutes, Vol. VI., page 261.)

Water, Sewerage, and Drainage Board.

A.D. 1944. chairman shall have a second or casting vote at any meeting at which he is present.

(4) Subject to this section, the board may regulate its own procedure.

PART III.

DUTIES, POWERS, AND FUNCTIONS OF THE BOARD.

Duties,
powers, and
functions of
the board.

6—(1) It shall be the duty of the board, in accordance with the provisions of this Act—

- (a) to regulate, control, and supervise the preparation of schemes for the construction by local authorities of works to which this Act applies, and the construction thereof; and
- (b) to inquire into and report to the Minister upon any proposals with respect to the construction of any works to which this Act applies by or on account of any department of the State, or by or on account of any body or authority on behalf of the State, other than the Commission, which are referred to the board by the Minister in accordance with section seven.

(2) Subject to this Act, the board may—

- (a) examine any scheme for the construction of any works to which this Act applies, submitted for the board's approval as required by section eight, and may, in its discretion, approve, or refuse to approve, the scheme, or may approve the scheme with such modifications and variations as the board thinks necessary or desirable;
- (b) make such recommendations to the Minister as it thinks proper in relation to—
 - (i) the amount which any local authority may be permitted to borrow for the purpose of constructing any works to which this Act applies in pursuance of a scheme approved by the board, and the terms and conditions of repayment of any amount so borrowed; and
 - (ii) the minimum rate which should be levied by a local authority for the purpose of defraying the costs of maintenance and management of any works to which this Act applies which are proposed to be constructed by the local authority, and for making provision for depreciation and for interest and sinking fund charges accruing, or liable to accrue

Water, Sewerage, and Drainage Board.

- due in respect of any money borrowed by the local authority in connection with the construction of the works; A.D. 1944.
- (c) supervise the employment of engineers in connection with the construction by local authorities of any works to which this Act applies, and in the preparation of schemes for the construction of those works, and ensure that any engineer so employed possesses the prescribed qualifications.
 - (d) conduct examinations for the purpose of ascertaining the qualifications of, and issue certificates of competency to, engineers for the purposes of this Act;
 - (e) when requested by any local authority, or jointly by two or more local authorities, so to do, carry out, on behalf and at the expense of the local authority or local authorities concerned, such investigations and surveys as may be necessary for the preparation of any scheme for the construction of any works to which this Act applies, and for this purpose—
 - (i) subject to subsection (3), carry out stream gaugings;
 - (ii) conduct sanitary surveys; and
 - (iii) generally, do all such acts and things and perform such functions as might be done or performed by the local authority or local authorities in the preparation of any such scheme;
 - (f) at the expense of the local authorities concerned, prepare a scheme for the supply of water to the combined districts of any two or more local authorities, and determine the proportions in which the local authorities shall defray the cost of the preparation of the scheme;
 - (g) where the board considers it to be in the public interest so to do, direct any local authority, with the consent of that local authority, to make such provision as may be necessary for the supply of water to the whole or any part of the municipality of any other local authority, and, subject to subsection (4), and in default of agreement thereon between the local authorities concerned, determine the charges which may be made for water so supplied by the local authority by which the water is supplied;
 - (h) direct any local authority to take such action and execute such works as the board may direct for the purification of, or the improvement of the quality of, any water supplied by the local authority to persons residing within any part of the municipality of the local authority;

Water, Sewerage, and Drainage Board.

A.D. 1944.

- (i) with the prior consent of the Minister, require that any works to which this Act applies and which are proposed to be constructed by a local authority shall be constructed, on behalf and at the expense of the local authority, by or under the direction or supervision of the Department of Public Works;
- (j) in any case where the board considers it necessary or desirable so to do, or whenever directed by the Minister so to do, inquire into and report to the Minister upon any matter relating to any existing work under the control of any local authority for the supply of water or the provision of irrigation, sewerage, or drainage facilities in any area or place; and
- (k) generally, do all such acts and things as may be necessary for the regulation, control, and supervision of works to which this act applies, and for carrying out and giving effect to the provisions of this Act.

(3) Except with the prior consent, in writing, of the Commission, no stream gaugings shall be carried out by the board in the execution of any of its powers under this section, but the Commission, at the request of the board, shall furnish the board with such information as the board may require in relation to any gauges established or proposed to be established by the Commission on any river or stream.

(4) In determining the charges which may be made by a local authority for the supply of water in pursuance of a direction of the board under paragraph (g) of subsection (2), the board shall fix such rates for the supply of water as may be reasonably expected to enable the local authority by which the water is supplied to supply such water without loss, and to repay to such local authorities any expenditure incurred by them in providing such supply.

(5) The board may give such notices and directions, and enter into such contracts, as appear to it to be necessary or desirable for giving effect to this section or for the execution of the powers conferred on the board by this Act.

(6) A notice or direction given by the board under this section shall be sufficiently authenticated if signed on behalf of the board by the chairman or, in the absence of the chairman, by the acting chairman, and any notice or direction purporting to have been so signed shall, in the absence of proof to the contrary, be deemed to have been made or given in pursuance of a resolution of the board.

(7) Every local authority shall comply in all respects with any direction given to it by the board under this section.

(8) If any local authority fails or refuses to comply with any direction of the board under this section, the board may, at the expense of that local authority, take such action and carry out, or cause to be carried out, such works as may be necessary for giving effect to the direction of the board.

Water, Sewerage, and Drainage Board.

7—(1) Every proposal with respect to the construction of any works to which this Act applies by or on account of any department of the State, or of any body or authority on behalf of the State, other than the Commission, shall be referred by the Minister to the board for inquiry and report.

A.D. 1944.

Works on account of State departments and authorities.

(2) The board shall examine every proposal referred to it by the Minister under this section and shall report to the Minister thereon, and shall in its report make such recommendations and observations as it thinks fit.

(3) All works to which this section applies shall be constructed, unless the Minister otherwise directs, by or under the direction or supervision of the Department of Public Works.

PART IV.

DUTIES OF LOCAL AUTHORITIES IN RELATION TO THE CONSTRUCTION OF WORKS TO WHICH THIS ACT APPLIES.

8—(1) Except as provided by subsection (2), every local authority which proposes to construct any works to which this Act applies shall, before proceeding with the construction thereof, prepare and submit to the board, in accordance with the regulations, a scheme for the construction of those works.

Local authorities to prepare and submit schemes to board.

(2) This section shall not apply to any alteration of, or addition to, any existing work in any case where the estimated cost of the alteration or addition does not exceed an amount equal to ten per centum of the gross revenue received in the immediately preceding financial year by the local authority from or in relation to that work.

(3) Subject to this Act, a local authority shall not proceed with the construction of any works to which this Act applies until the board has signified its approval of the scheme for the construction thereof.

(4) A local authority, in submitting a scheme for the approval of the board, shall lodge with the board—

(a) a statement setting out—

- (i) a general description of the works proposed to be constructed;
- (ii) the estimated cost of the works;
- (iii) the total amount of the annual values of all ratable property within the municipality or part thereof to be served by the proposed works; and
- (iv) the rate proposed to be levied by the local authority for the purpose of defraying the cost of the proposed works; and

Water, Sewerage, and Drainage Board.

A.D. 1944.

(b) such plan or plans as may be necessary in the opinion of the board for the purpose of indicating the essential features of the scheme.

(5) Before approving any scheme submitted to the board under this section, the board may require the local authority by which the scheme is submitted to—

(a) modify or alter the scheme in such manner as the board may determine; or

(b) supply such information in relation thereto as the board may require,

and the local authority shall comply with and observe every requirement of the board under this subsection.

(6) Without prejudice to the foregoing provisions of this Act, the board may refuse to approve any scheme for the construction of any works to which this Act applies if, in the opinion of the board, the construction of those works would—

(a) result in the pollution of any tidal river or stream; or

(b) adversely affect any primary industry carried on, or the operation of any scheme for closer settlement established, in the district or place in which the works are to be constructed.

(7) The board shall not, without the prior consent, in writing, of the Commission, approve any scheme which involves the impounding or abstraction of any water in lakes, falls, rivers, or streams.

(8) Upon approving any scheme submitted to the board under this section, the board shall signify its approval by affixing its seal to the statement submitted under subsection (4) with such alterations therein as the circumstances may require, and shall forward to the local authority by which the scheme was submitted a notice, in writing, notifying the board's approval of the scheme.

Power to local authorities to request board to prepare schemes.

9—(1) Any local authority may request the board to prepare, on its behalf, a scheme for the construction by the local authority of any works to which this Act applies, and the board may, in its discretion, prepare a scheme on behalf and at the cost of the local authority.

(2) Any two or more local authorities may request the board to prepare on behalf of the local authorities a scheme for the construction by one of the local authorities of any works to which this Act applies for the purpose of serving the combined districts of the local authorities, and the board, in its discretion, may prepare the scheme on behalf and at the expense of the local authorities.

(3) Where any scheme is prepared by the board under subsection (2), the board may determine the respective proportions in which the cost of the preparation of the scheme shall be borne by the local authorities concerned.

Water, Sewerage, and Drainage Board.

10 Except in relation to any work within the provisions of subsection (2) of section eight, it shall not be lawful for any local authority to—

A.D. 1944.

- (a) borrow any moneys for the purpose of defraying the costs of any works to which this Act applies—
- (i) unless and until the scheme for the construction thereof has been submitted to, and approved by, the board as provided by section eight; and
- (ii) except with the consent of the Minister, given on the recommendation of the board; or
- (b) proceed with the construction of any works to which this Act applies except in pursuance of a scheme for the construction thereof which has been approved by the board as provided by section eight.

Local authorities not to borrow moneys or construct works except when approved.

11—(1) Except as provided by this section, nothing in this Act shall apply to the City of Hobart or the City of Launceston.

Act not to apply to Hobart or Launceston.

(2) The council of either such city may enter into an agreement with the Board for the application to such city of all or any of the provisions of this Act in respect of any work or proposed work specified in such agreement.

(3) During the continuance of any such agreement as aforesaid, and to that extent therein limited, the provisions of this Act shall apply to the city to which such agreement relates and shall be construed accordingly.

12—(1) The board may, by notice in writing served upon any person or any local authority, direct that person or local authority to take such action and execute such works as may be specified in the notice for the purpose of purifying, or preventing the pollution of, any water required for the purposes of any works for the supply of water constructed, or to be constructed, in pursuance of any scheme approved by the board under this Act, or for the purpose of preventing the pollution of any lake, river, stream, or tidal waters.

Local authorities to take steps to purify, &c., water when directed by the board.

(2) Every person and local authority directed by the board to take any action or execute any works in pursuance of this section shall, within six months after the service of the notice referred to in subsection (1), comply with all directions of the board set out in the notice, and, in default of compliance therewith, the board may, at the expense of that person or local authority, execute or cause to be executed such works as may be necessary for giving effect to the direction of the board.

13—(1) In any case where the board, after an inquiry in pursuance of paragraph (j) of subsection (2) of section six, reports to the Minister, in respect of any works to which

Directions as to rating, &c., by local authority.

Water, Sewerage, and Drainage Board.

A.D. 1944. that paragraph relates, that a local authority has not made, or is not making, sufficient provision to ensure the financial stability of the account in relation to the work or to meet all present and future commitments or liabilities of the local authority in relation thereto, the Minister may, by notice in writing, addressed to the local authority, direct it to take such action as the Minister, on the recommendation of the board, thinks necessary (including, but without prejudice to the generality of this subsection, the raising and levying of an additional rate by the local authority).

(2) The Minister may at any time, by notice in writing addressed to a local authority, direct the local authority to raise and levy any rate, the levying of which has been recommended by the board under sub-paragraph (ii) of paragraph (b) of subsection (2) of section six.

(3) A local authority shall comply with any direction of the Minister given under this section.

PART V.

MISCELLANEOUS AND FINANCIAL.

Officers of the board.

14—(1) The Governor may, under and in accordance with the provisions of the *Public Service Act 1923*,* appoint a secretary to the board and such other officers as the Governor thinks necessary for the purposes of this Act.

(2) With the approval of the Governor, upon the recommendation of the Public Service Commissioner, the board may make use of the services of any officer or employee of the Public Service for the purposes of this Act.

Board to keep minutes, accounts, &c.

15—(1) The board shall cause to be kept—

- (a) full and accurate minutes of its proceedings; and
- (b) true and correct accounts of all its receipts and expenditure under this Act in the prescribed form.

(2) The accounts of the board shall be subject to the provisions of the *Audit Act 1918*.†

Expenses of board.

16 All moneys required to be expended by the board under this Act shall be defrayed out of moneys to be provided by Parliament.

Power of board to recommend payment of subsidies to local authorities.

17—(1) Where, in pursuance of a scheme approved, or prepared on behalf of a local authority, by the Board, a local authority proposes to construct any works to which

* 13 Geo. V. No. 35, as amended by 18 Geo. V. No. 18, 26 Geo. V. No. 61, 2 Geo. VI. No. 29, 4 Geo. VI. No. 18, 5 Geo. VI. No. 6, 5 Geo. VI. No. 64, 6 Geo. VI. No. 9, 6 Geo. VI. No. 54, 7 Geo. VI. No. 18, and by Statute Law Revision. (See Reprint of Statutes, Vol. VI., page 261.)

† 9 Geo. V. No. 3, as amended by 12 Geo. V. No. 75, 14 Geo. V. No. 52, 14 Geo. V. No. 69, 18 Geo. V. No. 62, 1 Geo. VI. No. 63, 3 Geo. VI. No. 34, and by Statute Law Revision. (See Reprint of Statutes, Vol. I., page 235.)

Water, Sewerage, and Drainage Board.

this Act applies, the board may recommend to the Minister the payment to that local authority for the purpose of assisting it in the construction of those works, of a subsidy of such amount as the board may determine. A.D. 1944.

(2) The board may recommend that the payment of any subsidy under this section shall be subject to the observance by the local authority of such terms and conditions as the board thinks necessary or desirable.

(3) In making any recommendation under subsection (1), the board shall have regard to—

- (a) the ratio which the total amount of the annual values of all ratable properties in the municipality or part thereof to be served by the works bears to the total amount of the capital values of those properties; and
- (b) the capacity of the ratepayers for that municipality or part thereof to pay any additional rates levied or proposed to be levied by the local authority for the purpose of defraying the cost of the works.
- (c) the financial position and circumstances generally of the local authority—

and shall recommend as nearly as may be a subsidy of such amount as, allowing for the highest rate that can be reasonably levied and the other available resources of the local authority, if any, will, in the opinion of the Board, enable the local authority to undertake the proposed work.

(4) The board shall not recommend the payment in pursuance of this section of any subsidy which exceeds an amount ascertained by deducting from the total cost (including such provision as the board may approve for depreciation, and for payment of interest and sinking fund charges, and the cost of maintenance and management) of the works in respect of which the subsidy is payable, the estimated proceeds of any rate levied or proposed to be levied by the local authority for the purpose of defraying the cost of those works.

(5) No subsidy shall be paid by or on behalf of the State to any local authority in respect of any works to which this Act applies which are constructed after the commencement of this Act, unless the payment thereof has been recommended by the board under this section.

(6) After the commencement of this Act, no payments shall be made to any local authority under the *Local Authorities Public Works Subsidies Act 1936** in respect of any works to which this Act applies, not being works which, prior to such commencement, were proclaimed as public works for the purposes of Part III. or Part IV. of that Act, or works which, having been approved prior to such commencement by the Minister as works to which those parts of that Act might be applied are subsequently proclaimed a public works thereunder.

* 1 Edw. VIII. No. 36, as amended by 1 Geo. VI. No. 3.

Water, Sewerage, and Drainage Board.

A.D. 1944.

(7) Any subsidy to a local authority, the payment of which is recommended by the board in accordance with this section, shall be paid to the local authority out of moneys to be provided by Parliament for that purpose.

Expenses of local authorities.

18—(1) Any expenditure by a local authority under Part IV. may be defrayed by the local authority out of—

(a) its municipal fund; or

(b) the proceeds of any rate levied by the local authority for the purpose of defraying the cost of the construction by the local authority of any works to which this Act applies.

(2) Any expenses incurred by a local authority in connection with any survey or investigations made or carried out for the purpose of preparing a scheme for any alteration of or addition to any works to which this Act applies may, if the local authority so determines, be defrayed out of the water or sewerage account of the local authority.

(3) Where any works to which this Act applies have been constructed on behalf of any local authority by or under the direction or supervision of the Department of Public Works, the expenses incurred by the local authority in or in connection with the construction of those works, including any expenses incurred in relation to borrowing moneys therefor, may be defrayed out of any moneys borrowed by the local authority for the purpose of defraying the cost thereof.

(4) Any expenses incurred by a local authority in connection with any works undertaken by it in pursuance of a direction under section twelve may be defrayed out of its water or sewerage account or out of any moneys borrowed by the local authority for that purpose.

Debts due to board.

19 Any money payable to the board by any local authority in accordance with the provisions of this Act shall be deemed to constitute a debt due to His Majesty and may be sued for and recovered accordingly.

Power to Hydro-Electric Commission to determine charges for water supplied in certain cases.

20 Where any water impounded or regulated by the Hydro-Electric Commission is supplied for the purposes of any works for the provision of irrigation facilities, the Commission may, with the approval of the Governor, determine the charges which shall be payable for the water so supplied.

Rights of ratepayers preserved.

21 Nothing in this Act shall have effect to deprive the ratepayers of any area of any right they may have under any other Act to reject any scheme or proposal submitted to them in respect of such area.

Regulations.

22 The Governor may make regulations prescribing all matters which by this Act are required or permitted to be

Water, Sewerage, and Drainage Board.

prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act, and in particular for— A.D. 1944.

- (a) prescribing the limits of accuracy to be observed in surveys made or carried out for the purpose of preparing any scheme for the construction of any works to which this Act applies;
- (b) prescribing the minimum and maximum grades to be adopted for sewers and drains;
- (c) regulating the standards of materials and workmanship to be observed in connection with the construction by local authorities of works to which this Act applies;
- (d) regulating and prescribing the qualifications of engineers who may be employed by a local authority in or in connection with the construction of any works to which this Act applies, and prohibiting the employment of engineers who are not possessed of the prescribed qualifications; and
- (e) providing for and regulating the holding of examinations for the purpose of ascertaining the qualifications of engineers for the purposes of this Act, and prescribing the courses of study for such examinations and the fees payable by candidates.

