

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

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

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

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

WATER, SEWERAGE AND DRAINAGE BOARD.

No. 87 of 1952.

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

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

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

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

Duties,
powers, and
functions of
the board.

Cf. 8 & 9
Geo. VI. c.
42, s. 26 (5).

2 Section six of the Principal Act is amended by adding at the end thereof the following subsection:—

“(9) In reaching any decision under this Act the board shall have regard to the following matters, so far as they are relevant, along with any other proper consideration:—

- (a) the character, catchment and flow or level of the stream or lake;
- (b) the extent to which any source of water is or may in the future be used for agriculture, water supply, fisheries, navigation, transport, industrial purposes, or sanitation; and
- (c) the effect of proposed works on land drainage, the productivity of land, and the water table under lands affected.”

Local
authorities to
prepare and
submit
schemes to
board.

3 Section eight of the Principal Act is amended by inserting after sub-paragraph (ii) of paragraph (a) of subsection (4) the following sub-paragraph:—

“(iiA) in the case of a scheme for supplying water, what water rights are to be affected and how the proprietors of them are to be dealt with, whether by payment in money, compensation water, agreement to supply, or otherwise, and the estimated cost of the necessary water rights, if purchased or taken;”

4 After section eight of the Principal Act the following sections are inserted:—

Proposals for
water works.

“8A.—(1) When a local authority submits a scheme for supplying water for the approval of the board, it shall within fourteen days before or after the submission thereof give public notice in a newspaper circulating throughout the area to be affected by the scheme, stating that the scheme may be inspected at the office of the local authority.

(2) A copy of every such scheme shall be made available by the local authority at its office for inspection for the next month after the publication of the notice.

(3) Any person claiming to be affected by the scheme otherwise than as a ratepayer of the local authority may, within forty days after the publication of the notice, object to the scheme in writing to the board which shall, before approving of the scheme, notify the objector how it has treated his objection, but the board need not wait for objections to be made before refusing to approve a scheme.

(4) If the board—

- (a) requires the local authority to modify or alter the scheme or refuses or threatens to refuse to approve the scheme, the local authority; or

- (b) substantially overrules his objection, the objector,

may, within one month, demand a public hearing by the board, which shall appoint, and give public notice of, a place and a day for commencing the hearing, accordingly.

(5) Before any scheme for supplying water is approved by the board it shall state clearly how the relevant water rights are to be dealt with, and if the board intends to approve the sending down of compensation water it shall first determine the compensation water.

(6) For the purposes of this section, compensation water is water to be sent down the stream bed by the undertakers from a particular point, at particular rates, and for particular times, which place, rates, and times shall be determined by the board which shall have regard to all the circumstances of the particular case including—

Cf. 8 & 9 Geo. VI., c. 42, s. 26 (5)

- (a) the character and flow of the stream;
- (b) the extent to which the stream is or may in the future be used for agriculture, water supply by other authorities, fisheries, navigation, transport, industrial purposes, or sanitation; and
- (c) the effect on land drainage or on the productivity of land of any alterations in the flow of the stream and consequent raising or lowering of the water-table,

and shall secure, as far as practicable, that the flow of the stream does not fall below the minimum quantity necessary to secure the interests of public health, and that all persons who have a material interest in the use and flow of the stream will, if the compensation water is sent down, suffer no material loss.

(7) In determining the compensation water the board shall first give public notice in a newspaper circulating throughout the area to be affected of the effect of the scheme on lower riparian owners and of its proposed determination with respect to compensation water and that it will hold a public hearing at a specified place in that area beginning on a specified day of all persons who desire to make a submission relevant to its determination of the compensation water, and shall hold the public hearing and thereupon shall draw up and seal a decree stating what shall be the compensation water.

(8) All such decrees shall be deemed to be legislative acts, and not judicial acts, and shall be published in the *Gazette* and filed by the secretary to the board.

(9) Where a stream has been dammed it may be decreed that when the daily rate of flow into the reservoir thereby formed is less than the daily rate for compensation water, the compensation water shall be lessened by the same amount.

(10) At any public hearing under this section any person (including the Crown) wishing to make a relevant submission to the board may appear in person or by an agent and tender evidence and may, by leave of the board, answer the submissions of other persons before the board and cross-examine their witnesses.

(11) For the purposes of any such public hearing the board shall be deemed to hold letters patent issued by the Governor under the seal of the State directing it to inquire into all matters relevant to its decision to approve the scheme or not, or its determination of compensation water, as the case may be.

(12) The public hearings on approval and compensation water for any one scheme may be combined.

Water
Appeal
Tribunal.

“8B.—(1) There shall be a body to be called the ‘Water Appeal Tribunal’ consisting of three members appointed by the Governor of whom—

- (a) one shall be a police magistrate and the chairman;
- (b) one shall be nominated by the Municipal Association; and
- (c) one shall be nominated jointly by the Tasmanian Farmers’ Federation and the Tasmanian Farmers, Stockowners and Orchardists’ Association.

(2) Any person who is aggrieved by a decision of the board in respect of an objection under section eight A or the determination of compensation water thereunder may appeal to the Water Appeal Tribunal, within thirty days after he has notice of the board’s decision, by giving notice of appeal to the chairman of the board.

(3) Every such appeal shall be heard and determined as prescribed, and the Water Appeal Tribunal may order the board to make such decision as it thinks the board ought to have made, and the board shall take further action accordingly.”

Power of
Board to
recommend
the payment
of subsidies to
local
authorities.

5 Section seventeen of the Principal Act is amended—

- (a) by omitting subsection (6A) and substituting therefor the following subsection:—

“(6A) In any cases where a local authority has carried out investigations or surveys for the purpose of enabling it to proceed with the preparation of a scheme for the construction of any works to which this Act applies, or has prepared any such scheme, and for any reason has not proceeded with the preparation or execution of that scheme, the board if it thinks fit may, on the application of the local authority, recommend to the Minister the payment to the local authority of a subsidy of

such amount as the board may determine for the purpose of defraying the whole or any part of the expenses incurred by the local authority in or in connection with the carrying out of such investigations, surveys, or preparation.”; and

(b) by omitting from subsection (6B) the words “or surveys” and substituting therefor the words “surveys or preparation”.

§ Section eighteen of the Principal Act is amended— Expenses of local authorities.

(a) by omitting from subsection (1A) the words “or surveys” and substituting therefor the words “surveys or preparation”; and

(b) by omitting from subsection (1B) the words “or surveys” and substituting therefor the words “surveys or preparation”; and

(c) by inserting in subsection (2) after the word “applies” the words “or the preparation of any such scheme”.

LOCAL GOVERNMENT (No. 2).

No. 88 of 1952.

AN ACT to amend the *Local Government Act 1906*.
[19 December, 1952.]

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

1—(1) This Act may be cited as the *Local Government Act (No. 2) 1952*. Short title and citation.

(2) The *Local Government Act 1906*, as subsequently amended, is in this Act referred to as the Principal Act.