



ANNO VICESIMO OCTAVO

ELIZABETHAE SECUNDAE REGINAE

No. 33 of 1979

**An Act to provide for the planning, further development,
administration and operational control of bulk supply
of water by Brisbane and Area Water Board to Local
Authorities and for electricity generating purposes
and for related purposes**

[ASSENTED TO 20TH JUNE, 1979]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. **Short title.** This Act may be cited as the *Brisbane and Area Water Board Act 1979*.

2. **Commencement of Act.** The Governor may by Proclamation—
(a) appoint a date on which this Act shall come into operation; or
(b) appoint dates on which the provisions of this Act specified in the Proclamation shall come into operation.

Such dates may be appointed in the one Proclamation or in different Proclamations.

This Act or a provision thereof specified in the Proclamation shall come into operation on the date appointed by Proclamation made under this section for the coming into operation of this Act or, as the case may be, that provision.

3. Arrangement of Act. This Act is divided into Parts, Divisions of Parts and a Schedule as follows:—

PART I—PRELIMINARY (ss. 1–5);

PART II—OPERATIONAL AREA OF THE BOARD (ss. 6–7);

PART III—BRISBANE AND AREA WATER BOARD (ss. 8–21);

Division 1—Incorporation and Composition of Board;

Division 2—Control of Board's Affairs;

PART IV—FUNCTIONS AND POWERS OF THE BOARD (ss. 22–39);

Division 1—General Functions;

Division 2—General Powers;

PART V—SUPPLY AND USE OF WATER (ss. 40–60);

Division 1—Control of Water;

Division 2—Protection of Water Quality;

Division 3—Discontinuance or Lessening of Supply of Water;

PART VI—FINANCIAL PROVISIONS (ss. 61–92);

Division 1—Power to Charge for Water;

Division 2—Power to Borrow Money;

Division 3—Funds of Board;

Division 4—Accounts and Audit;

Division 5—Special Financial Arrangements;

PART VII—TAKING AND HOLDING LAND BY THE BOARD (ss. 93–105);

Division 1—Acquisition of Land;

Division 2—Rateability of Land;

PART VIII—PROCEDURE AND PRACTICE (ss. 106–109);

Division 1—Flood Mitigation;

Division 2—Practice concerning Water and Power generation;

PART IX—CONDUCT OF THE BOARD'S AFFAIRS (ss. 110–129);

Division 1—Proceedings and Business of Board;

Division 2—Remuneration Fees and Expenses;

Division 3—Employees of Board;

PART X—MISCELLANEOUS PROVISIONS (ss.130–146).

4. Meaning of terms. In this Act, save where a contrary intention appears—

“Advisory Committee” means the Advisory Committee established pursuant to section 21, as constituted at the material time;

- “Board” means the body corporate constituted under this Act by the name Brisbane and Area Water Board;
- “Chairman” means Chairman of the Board;
- “dam” means a barrier, together with its appurtenant works, for the storage, control or diversion of water;
- “Director” means the Director of Local Government for Queensland;
- “maximum flood level” means that water level in a reservoir that may be reached temporarily during the passage through it of the maximum probable flooding provided for in the design and construction of the dam that forms the reservoir;
- “full supply level” means the maximum water storage level assigned to a reservoir for the permanent storage of water for the purpose of water supply;
- “headworks” means any dam, reservoir, structure, well, bore, tank, aqueduct, tunnel, building, engine, pump or equipment used for or in connexion with the storage, control or diversion of water and includes works for the conveyance of water (other than trunk mains) or for the generation of hydro-electricity;
- “Local Authority” means Brisbane City Council constituted under the *City of Brisbane Act 1924-1977* and a Local Authority constituted under the *Local Government Act 1936-1978* and, save in Part III, includes a Joint Local Authority, constituted under the latter Act;
- “Minister” means the Minister for Local Government and Main Roads or other Minister of the Crown who at the material time is charged with the administration of this Act and includes any person who is temporarily performing the duties of the Minister;
- “operational area” means the operational area of the Board declared by Part II;
- “reservoir” means any artificial lake, pond or basin formed by the construction of a dam;
- “secretary” means the person appointed by the Board to be secretary of the Board and includes the officer of the Board for the time being performing the duties of secretary;
- “town planning scheme” includes a scheme for town planning approved by the Governor in Council pursuant to the *Local Government Act 1936-1978* and the town plan for the city of Brisbane under the *City of Brisbane Town Planning Act 1964-1977*;
- “treatment works” means any building, storage tank, mechanical or electrical equipment of every description or other part of any works that is used primarily for the quality control or purification of water and includes all mains contained therein or used in association therewith;
- “trunk main” or “main” means any pipe, aqueduct, syphon or facility used in association therewith (including a water-meter and other apparatus and equipment of every description) that is used for or in connexion with the conveyance of water from headworks.

5. Provisions concerning application of other enactments. (1) Upon the Board assuming control of the headworks comprising Somerset Dam and the Hydro-electric Works being the headworks to which *The City of Brisbane (Water Supply) Act of 1959-1978* (hereinafter in this subsection called "the Act aforesaid") applies—

- (a) all obligations required by or pursuant to the Act aforesaid to be discharged by Brisbane City Council or the Council of the City of Ipswich after the date on which such control is assumed by the Board shall be discharged by the Board and the provisions of the Act aforesaid that provide for such obligations or their discharge shall be construed as if a reference therein to Brisbane City Council or the Council of the City of Ipswich were a reference to the Board;
- (b) the moneys required to be paid by the Board to the Treasurer of Queensland pursuant to paragraph (a), to the extent that they represent capital costs of headworks, shall be deemed to constitute a loan duly made by the Treasurer to the Board and moneys from time to time due and owing by the Board to the Treasurer pursuant to the Act aforesaid and unpaid shall be a debt due and owing by the Board to the Treasurer and may be recovered by action in a court of competent jurisdiction and, in addition, section 6 of the Act aforesaid shall apply in respect of such moneys due and owing and unpaid as if the Board were a Local Authority within the meaning of the *Local Government Act 1936-1978*;
- (c) sections 4 (5) and 5 (2) of the Act aforesaid shall apply in respect of moneys that pursuant to paragraph (b) are deemed to constitute a loan duly made by the Treasurer to the Board and shall be construed as if a reference therein to Brisbane City Council or the Council of the City of Ipswich were a reference to the Board;
- (d) section 8 of the Act aforesaid shall apply in respect of payments to be made by the Board pursuant to paragraph (a) and shall be construed as if a reference therein to Brisbane City Council or the Council of the City of Ipswich were a reference to the Board.

(2) Upon the Board assuming control from Brisbane City Council of the lands comprising the Somerset Dam Catchment Area within the meaning of the *Somerset Dam Catchment Area Declaratory Act 1974-1978* that Act shall be construed in relation to the making, levying and paying of rates to which it applies, in respect of any period after such acquisition, as if—

- (a) section 3 read as follows:—

"3. Owner of catchment area. It is hereby declared that the Brisbane and Area Water Board constituted under the *Brisbane and Area Water Board Act 1979* is, and always has been since the same was acquired by it pursuant to that Act, the owner of the Somerset Dam Catchment Area to the exclusion of all other persons for the purpose of the making and levying of rates in respect of land within that Area pursuant to *The Local Government Act of 1936* as amended to the time of the making and levying of such rates."; and

- (b) a reference therein to Brisbane City Council were a reference to the Board.
- (3) Upon the Board assuming control of the headworks comprising the Pine River Dam to which *The City of Brisbane (North Pine River Dam) Act of 1962* applies—
- (a) that Act shall be construed in respect of any period after such assumption of control as if a reference therein to Brisbane City Council were a reference to the Board; and
- (b) powers exercisable by Brisbane City Council in connexion with the dam or the storage therein or the supply of water therefrom, which powers are referred to in that Act but which are derived from *The Metropolitan Water Supply and Sewerage Acts 1909 to 1962*, shall be deemed to be powers of the Board exercisable by it and for that purpose the provisions of the last-mentioned Acts shall be construed as if a reference therein to Brisbane City Council were a reference to the Board.
- (4) Where the Board has assumed control of headworks, then, until by-laws of the Board that apply to those headworks are made, by-laws or ordinances of a Local Authority that apply to those headworks relating to protection of the same against trespass or damage or to access by the public on any part of the same or to any other matter that concerns the use that may be made of the same shall continue to be of full force and effect and may be enforced by the Board as if they were by-laws of the Board duly made under this Act, and for that purpose such by-laws or ordinances shall be construed as if a reference therein to a Local Authority were a reference to the Board.

PART II—OPERATIONAL AREA OF THE BOARD

6. Establishment of Area. The area delineated on map No. M393 deposited in the Department of Mapping and Surveying at Brisbane is hereby declared to be an area called the “Operational Area of Brisbane and Area Water Board”, which consists of the Local Authority Areas and parts of Local Authority Areas specified in the Schedule.

7. Publication of operational area. A copy of map No. M393 referred to in section 6 shall be held available for public inspection in the office of the Director at Brisbane, in the public office of the Board and in the public office of each Local Authority whose area or part of whose area is within the operational area.

PART III—BRISBANE AND AREA WATER BOARD

Division 1—Incorporation and Composition of Board

8. Constitution of Board. (1) There shall be constituted from time to time as prescribed by this Act a body corporate under the name and style “Brisbane and Area Water Board” which, by that name and style, shall have perpetual succession and a common seal and shall be capable in law of suing and being sued in its corporate name and, subject to this Act and for the purpose of discharging its functions under this Act, of taking, acquiring, holding and disposing of land and other property, of granting and taking leases of land and other property and of doing and suffering all such other acts and things as bodies corporate may in law do and suffer.

(2) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Board affixed to any document and shall presume unless the contrary is proved that it was duly affixed.

(3) The Board shall from time to time provide and maintain, or contract for the use of a public office within the operational area for the purpose of transacting the business of the Board.

9. Members of Board. The Board shall consist of the following members:—

- (a) five persons, aldermen of Brisbane City Council, nominated by that council for appointment;
- (b) persons, equal in number to the number of Local Authorities, other than Brisbane City Council, whose Areas or parts of whose Areas are within the operational area, each of whom shall be a member of one of such Local Authorities, nominated by that authority for appointment; and
- (c) a Chairman nominated by the Minister who may but shall not necessarily be a person referred to in paragraph (a) or (b).

If the Chairman is appointed from persons referred to in paragraph (a) or (b) no Local Authority referred to in either of those paragraphs shall be thereby entitled to additional representation on the Board.

10. Nominees' names to be furnished to Minister. (1) As soon as practicable after the commencement of this Part and thereafter, from time to time, within a reasonable time before the expiration of the term of appointment of members of the Board, the Minister shall request in writing each of the Local Authorities whose Areas or parts of whose Areas are within the operational area to furnish to him, within the time limited in the request, the name of its nominee or the names of its nominees (as the case may be) for appointment to the Board as its representative or representatives.

(2) Where, during the term of appointment of members of the Board, the operational area is amended to include the Area or part of the Area of a Local Authority that is not represented on the Board, as soon as practicable thereafter the Minister shall request in writing that Local Authority to furnish to him, within the time limited in the request, the name of its nominee for appointment to the Board as its representative.

11. Action upon default in complying with Minister's request. If at any time default is made by a Local Authority in furnishing as duly requested by the Minister the name of a person nominated for appointment to the Board or the person nominated is not qualified as prescribed for such appointment the Minister may at his discretion nominate a person as the nomination in respect of which default has been made and the Minister's nomination shall be deemed to have been made by that Local Authority.

12. Date for nomination of Local Authority's nomination. Where the Minister makes of a Local Authority a request referred to in section 10 (1), the time limited therein for furnishing the name of the nominee of the Local Authority shall be such that it will expire on a date later than the day on which is held the first meeting of the Local Authority following the election by reference to which the term of appointment of its representative on the Board is, by this Act, expressed to expire.

13. Appointment of members of Board. (1) The members of the Board shall be appointed by the Governor in Council, on the recommendation of the Minister, by notification published in the Gazette.

(2) The Board shall be taken to be duly constituted upon the publication in the Gazette of notification of the first appointment of its members being the whole number of persons duly nominated for appointment.

14. Term of appointment. (1) The term of appointment of each member of the Board first constituted shall commence on the date of notification in the Gazette of his appointment or such later date as is therein specified in that behalf.

(2) The term of appointment of a member of the Board who is appointed during the term of office of existing members of the Board shall commence on the date of notification in the Gazette of his appointment or such later date as is therein specified in that behalf.

(3) Save as is prescribed by subsection (2), the term of appointment of each member of the Board constituted subsequently to its first constitution shall commence on the first day of July next following the day on which the term of appointment of members of the Board expires in accordance with this section.

(4) The term of appointment of each member of the Board shall expire on the last day of June next following the day prescribed by the *Local Government Act* 1936–1978 for holding the triennial elections next following the commencement of his appointment.

(5) Every member of the Board shall, if duly nominated and qualified under this Act, be eligible for re-appointment to the Board.

15. Termination of membership of Board. (1) A member of the Board may resign his office as such at any time, by writing furnished to the Minister.

(2) The Governor in Council may remove from office as such a member of the Board if—

- (a) he is made bankrupt or otherwise takes advantage of the laws relating to bankruptcy;
- (b) in the opinion of the Governor in Council—
 - (i) he becomes incapable of discharging the duties of his office; or
 - (ii) he is incompetent or unfit to hold his office.

(3) A member of the Board shall be deemed to have vacated his office—

- (a) in the event of his resignation, upon receipt by the Minister of his notice of resignation;
- (b) in the event of his removal, upon issue by the Minister of notice of his removal;
- (c) if, being a representative of a Local Authority on the Board—
 - (i) he ceases to be an alderman or a member of that Local Authority otherwise than by his defeat at an election of aldermen or members of that Local Authority or by his failure to contest such an election; or

- (ii) the Area or the part of the Area of the Local Authority of which he is an alderman or a member ceases to be within the operational area; or
- (iii) that Local Authority has informed the Minister in writing that by its resolution it no longer desires the person in question to represent it on the Board; or
- (d) if he is convicted in the State of an indictable offence for which he is liable to imprisonment for one year or more or is convicted elsewhere of an offence such that, if committed by him in the State, would constitute an indictable offence upon conviction whereof he would be so liable.

16. Casual vacancy in membership of Board. (1) A casual vacancy shall be taken to arise in the office of a member of the Board—

- (a) if he dies in office; or
- (b) if his office becomes vacant as prescribed by section 15 (3).

(2) If a casual vacancy occurs in the office of a member of the Board during the currency of his term of appointment another person may be appointed to fill that office in accordance with section 13.

(3) For the purpose of making an appointment to a casual vacancy in the office of a member of the Board section 10 shall apply save that a request to be made by the Minister for that purpose shall be made as soon as practicable after the vacancy occurs.

(4) The term of appointment of a person appointed to fill a casual vacancy shall continue for as long as the appointment of his predecessor had the casual vacancy not occurred.

17. Delegate members of Board. (1) A person may be nominated as a delegate member of the Board to deputise for a member of the Board.

A nomination of a delegate member shall be of no effect unless—

- (a) he is nominated as prescribed by this section; and
- (b) he is a person qualified as prescribed to be nominated as a member of the Board in the office of the member for whom he is to deputise.

(2) The nomination of a delegate member—

- (a) shall, where it is for the purpose of two or more consecutive meetings of the Board, be made by the Local Authority that nominated such representative; and
- (b) may, in any other case, be made by the member for whom the delegate member is to deputise.

(3) A nomination of a delegate member—

- (a) may be made only if the member for whom a delegate is sought will be absent from any meeting or meetings of the Board because of illness, absence from the State or other unavoidable reason;
- (b) if it is to continue in effect for a period of three months or more, may be made only with the approval of the Minister first had and obtained; and
- (c) shall be notified in writing to the Minister as soon as practicable after it is made.

(4) For as long as his nomination as such continues in effect a delegate member shall be entitled to attend meetings of the Board in the absence of the member for whom he is deputising and shall be deemed to be a member of the Board.

(5) A nomination of a person as a delegate member shall terminate and be of no further effect—

- (a) in the case of a nomination expressed to be for the purpose of any meeting or meetings of the Board, upon the conclusion of that meeting or as the case may be, the last of those meetings;
- (b) in the case of a nomination expressed to be for a period, upon the expiration of that period;
- (c) if the member for whom he is deputising dies or vacates his office as prescribed by section 15;
- (d) upon the occurrence of any event that would cause his vacating office as a member were he a member of the Board.

18. Persons deemed to be members of Local Authority. If—

- (a) a Local Authority represented on the Board is dissolved pursuant to the *Local Government Act 1936–1978* and an Administrator is, under that Act, deemed to be the Local Authority; or
- (b) a Local Authority Area or part of a Local Authority Area in relation to which an Administrator is, under the *Local Government Act 1936–1978*, deemed to be the Local Authority becomes part of the operational area,

it shall be deemed for the purposes of this Act that the Local Authority continues in being or, as the case may be, exists in and for the Area in question and has as its members the Administrator and, if an executive committee is constituted under that Act in the particular case, each member of that committee.

Division 2—Control of Board's Affairs

19. Chairman. (1) An appointment as Chairman shall be taken to have been duly made if, in the notification published in the Gazette of the appointment of a member or members of the Board, it is indicated who of the Board's members is to be Chairman.

(2) An officer of the Public Service of Queensland or an employee of a Local Authority shall not be eligible for appointment as Chairman.

20. Deputy Chairman. (1) The Board shall from time to time appoint one of its members to be Deputy Chairman.

An appointment to the office of Deputy Chairman shall be made as soon as practicable after the appointment of members of the Board, being the whole number of persons duly nominated for appointment.

(2) The Deputy Chairman shall act in the office of Chairman during such time as the Chairman is prevented by absence, illness or otherwise from performing the duties of that office and during such time as a vacancy exists in that office, and while he so acts, shall have and may exercise all the powers and authorities of the Chairman.

21. Committee to advise Board. (1) There shall be established and from time to time constituted an Advisory Committee to the Board with a view to its furnishing to the Board information and advice—

- (a) on all matters associated with the functions of the Board under this Act; and
- (b) on all matters specifically referred to it by the Board and in relation to which such information or advice is sought by the Board.

(2) The Advisory Committee shall consist of the following members:—

- (a) the person holding the office of Co-ordinator-General, or his nominee;
- (b) the person holding the office of Commissioner of Water Resources, or his nominee;
- (c) the Director, or his nominee;
- (d) the Chief Engineer and Manager, Water Supply Department, Brisbane City Council, or his nominee;
- (e) an officer, nominated by the Board, of a Local Authority, other than Brisbane City Council, represented on the Board.

(3) A nominee of a person referred to in subsection (2) shall be an officer of the department administered by that person and may continue as such nominee only so long as he continues to be an officer of that department.

(4) A person referred to in provision (a), (b), (c) or (d) of subsection (2) and the Board may, at his or its will, change his or its nominee on the Advisory Committee at any time and may appoint a person to be a delegate of his nominee for the time being for the purpose of attending any meeting or meetings of the Advisory Committee in the absence of such nominee.

If a person or the Board exercises a power referred to in this subsection he or it shall, as soon as practicable, inform the Minister of his or its decision.

(5) The Advisory Committee shall meet as often as it thinks necessary to perform its function of assisting the Board but at least once in each half-year.

As soon as practicable after each of its meetings the Advisory Committee shall, through its chairman, furnish its report to the Board—

- (a) informing the Board of its opinion and recommendations on matters referred to it by the Board for information or advice; and
- (b) if it thinks fit, drawing the Board's attention to matters that it considers relevant to the Board's functions and informing the Board of its recommendations as to courses of action arising in respect of such matters.

(6) The Director or his nominee or, at any meeting at which a delegate nominee appointed by the Director attends, such delegate, shall be chairman of the Advisory Committee and shall preside.

(7) The Minister shall from time to time give notification in the Gazette of membership of the Advisory Committee.

PART IV—FUNCTIONS AND POWERS OF THE BOARD

Division 1—General Functions

22. Functions. (1) The Board's functions are—

- (a) to conserve and store water and allocate water to—
 - (i) Local Authorities whose Areas or part of whose Areas are within the operational area; and
 - (ii) with the prior approval of the Minister, to Local Authorities whose Areas are outside the operational area, and to electricity generating authorities.
- (b) to sell water to Local Authorities, with the prior approval of the Minister where it is required by paragraph (a), for their own use or for resale of part of such water to another Local Authority;
- (c) to sell water direct from a reservoir, with the prior approval of the Minister, to electricity generating authorities for the purposes of one or more of their generating stations;
- (d) to incorporate into headworks under the control of the Board constructed before or after the date of commencement of this Part such flood mitigation provisions as the Board deems expedient;
- (e) to reduce, so far as practicable, the effects of flooding, by the proper control and regulation in time of flood of headworks under the control of the Board, with due regard to the safety of the structures comprising those headworks;
- (f) to investigate and plan for such future headworks and trunk mains as, in the Board's opinion, may be required to meet the requirements for the supply of water as a function of the Board and to take all steps deemed by the Board to be practicable to implement plans and schemes accepted for such headworks and trunk mains;
- (g) to take all steps adjudged by the Board to be necessary or desirable to ensure and maintain the quality of present and future supplies of water in the operational area;
- (h) to construct operate and maintain and, where necessary, to improve or extend headworks and trunk mains under the Board's control;
- (i) at the request of one or more Local Authorities to construct, operate and maintain and where necessary to improve and extend treatment works to supply treated water to such Local Authority or Local Authorities and if so requested by a Local Authority to take over treatment works under the control of the Local Authority;
- (j) to provide such roads and communications, offices, stores, depots and other accommodation as the Board adjudges to be necessary to meet the requirements of its undertakings or any of them;
- (k) to administer and manage all property vested in the Board;
- (l) to take such measures and to carry out such works as are incidental to the proper discharge of the aforesaid functions of the Board.

(2) The function of the Board to conserve, store or treat water may be performed within or, with the prior approval of the Governor in Council, outside the operational area and if it is performed outside the area, includes the function of constructing, maintaining, controlling and operating headworks, trunk mains and, subject to paragraph (i) of subsection (1) treatment works outside the area.

(3) Nothing contained in this Act affects the powers of Brisbane City Council—

- (a) to treat and reticulate water allocated to it by the Board for its own use; or
- (b) subject to section 48 (4), to treat and deliver to another Local Authority water allocated to that other Local Authority by the Board.

Division 2—General Powers

23. Construction by Board. The Board may construct such headworks, trunk mains, treatment works (subject to section 22) and other works as it considers to be necessary for the purposes of this Act.

24. Board may make contracts and arrangements. (1) The Board may—

- (a) for the purpose of performing any of its functions, make contracts or enter into arrangements with any Local Authority with respect to the operation and maintenance of the headworks, trunk mains and treatment works of the Board and with respect to such other services to be provided by the Board as it considers necessary or desirable, including the conveyance of water through the mains of a Local Authority for delivery to another Local Authority;
- (b) make contracts for or in connexion with the discharge of any of its functions or the exercise of any of its powers under this Act.

(2) Save as is otherwise prescribed by this Act, a contract authorized by this Act shall be made in the name of the Board as follows:—

- (a) A contract that if made between private persons would by law be required to be in writing and under seal shall be made by the Board in writing and under its seal;
- (b) A contract that if made between private persons would by law be required to be in writing signed by the parties may be made in writing signed by the Chairman or two members of the Board;
- (c) A contract that if made between private persons would by law be valid although not reduced to writing may be made without writing by the Chairman or two members of the Board.

(3) A contract duly made in a manner prescribed by subsection (2) may be varied or discharged in the manner in which it is authorized to be made.

(4) Notwithstanding the provisions of subparagraphs (b) and (c) of paragraph (2) the Board may authorize the secretary or another of its officers (either generally or in a particular case), in lieu of the chairman or any two members referred to in those subparagraphs, on its behalf

to enter into contracts referred to in either of those subparagraphs for the execution of any works or the furnishing of any goods or any materials of a value not exceeding \$6 000, if—

- (a) provision for meeting the cost of any such a contract has been made in the budget; or
- (b) the cost of any such a contract has been approved by the Board in emergent or extraordinary circumstances,

and the secretary or the officer may enter into such a contract, if it is a contract that is specified in subparagraph (b) of the preceding paragraph in the manner specified in that subparagraph or if it is a contract that is specified in subparagraph (c) of the preceding paragraph in the manner specified in that subparagraph and may vary or discharge the contract in the same manner.

25. Provisions affecting contractual powers of Board. (1) The Board may, with the approval of the Governor in Council and with such limitations and under such conditions as he may impose, agree to pay in instalments extending over a period of time in respect of any obligation lawfully accepted by it.

(2) Before a contract—

- (a) for the execution of any work or the furnishing of goods or materials to an amount exceeding \$6 000;
- (b) for the sale of surplus goods or materials to a value exceeding \$1 000; or
- (c) for the sale of land

is entered into by the Board it shall, at least three weeks before entering into the contract, invite tenders for the contract by public notice published in such newspaper or newspapers and in such manner and to such extent as in its opinion will ensure that the notification of its intention is likely to be seen by as many as possible of people who are likely to tender for the contract.

(3) Before a contract—

- (a) for the execution of any work or the furnishing of any goods or materials to an amount exceeding \$1 000 but not exceeding \$6 000;
- (b) for the sale of surplus goods or materials to a value not exceeding \$1 000,

is entered into by the Board, it shall invite quotations for the contract in such manner and to such extent as will in its opinion ensure the receipt of a reasonable number of quotations.

(4) The procedure specified in subsection (2) or (3) may be dispensed with where in the Board's opinion an emergency exists.

(5) In respect of a sale of land or of surplus goods or materials the Board, in lieu of complying with subsection (2) or (3), may comply with this subsection.

The Board may sell land or surplus goods or materials by public auction or private contract but no such sale shall be made by private contract unless and until the land, goods or materials have been offered for sale by public auction and not sold.

The Board shall, at least once within a period not more than 14 days and not less than 7 days before the date on which it proposes to offer for sale by public auction any land or surplus goods or materials, advertise

in a newspaper the day, time and place when and where the public auction will take place together with a full description of the land or, as the case may be, surplus goods or materials in question.

In the case of land the Board shall, not more than 14 days and not less than 7 days before the date on which it proposes to offer the land for sale by public auction, affix on some conspicuous part of the land a notice setting out the day, time and place when and where the public auction will take place and a full description of the land.

An offer for sale by public auction to which this subsection applies may be at a reserve price determined by the Board.

(6) The provisions of subsections (2), (3), (4) or (5) do not apply to any contract or arrangement made by the Board with the Crown or with any public authority constituted pursuant to an Act or an Act of the Commonwealth or an Act of any State (other than Queensland) or Territory of the Commonwealth.

(7) Subject to this Act, the Board may accept the tender or quotation that on a view of all the circumstances appears to it to be the most advantageous or may decline to accept any tender or quotation.

(8) In determining which tender or quotation is the most advantageous in respect of a contract for the furnishing of goods or materials to be financed wholly or partly by way of money borrowed pursuant to section 63 or by way of grant or subsidy paid by the Treasurer of Queensland the Board may take into consideration the requirements of the Treasurer of Queensland at the material time in relation to the granting of preference to manufacturers.

26. Agreements concerning hydro-electric works. (1) The Board may enter into agreements on such terms not inconsistent with this Act as it thinks fit with the State Electricity Commission or any electricity generating authority that carries on its undertaking within or partly within the operational area for the construction, maintenance and operation of works for the hydro-electric generation of electricity (including works in connexion with pumped storages) either in conjunction with the construction, maintenance or operation of a dam or otherwise.

(2) The cost of construction, maintenance or operation of works the subject of an agreement referred to in subsection (1) shall not be at the expense of the Board save where the Governor in Council has, on the recommendation of the Minister and having regard to special circumstances of the particular case, approved.

(3) Where an agreement referred to in subsection (1) is entered into by the Board it shall become and be a function of the Board to sell and supply water to the person with whom the agreement is made, if the terms of the agreement require it for the purpose of giving effect to the agreement.

27. Power of entry. (1) For the purpose of discharging any of its functions the Board may provide such works as are necessary on, through, across, under or over any road and into, through, across, under or over any land within or outside the operational areas.

(2) For the purpose of discharging any of its functions the Board, by its agents and servants, may at all reasonable times enter upon any land, structure or premises—

(a) to carry any works into, through, across, under or over the land;

- (b) to undertake investigations and inspections, perform surveys, take levels, clear, excavate, dig and remove material on and from the land;
- (c) to execute any work in the structure or premises;
- (d) to ensure that the provisions of this Act or of the by-laws of the Board are complied with.

(3) If in the exercise of any of the powers conferred by subsection (1) or (2) damage is caused to any person the Board shall make just compensation to the person aggrieved on account of such damage.

(4) Before an agent or servant of the Board pursuant to a power conferred by this section enters any dwelling-house or part used exclusively for residential purposes, he shall, save where he has the permission of the occupier or person in charge of that dwelling-house or, as the case may be, part to his entry, obtain from a justice a warrant to enter.

In this subsection, a dwelling-house or part of premises used for residential purposes does not include the curtilage thereof.

A justice who is satisfied upon the complaint of an agent or servant of the Board that it is necessary for a purpose of this Act to enter premises may issue his warrant directed to the agent or servant to enter the place specified in the warrant for the purpose of exercising or performing therein the powers and duties conferred upon him under this Act.

A warrant shall be, for a period of one month from the date of its issue, sufficient authority for the agent or servant of the Board and all persons acting in aid of him to—

- (a) enter the place specified in the warrant; and
- (b) to exercise and perform therein the powers and duties conferred upon him by or under this Act.

For the purposes of gaining entry to any place an agent or servant of the Board may call to his aid such persons as he thinks necessary and those persons, while acting in aid of an agent or servant of the Board in the lawful exercise by him of his power of entry, shall have a like power of entry.

(5) Before an agent or servant of the Board enters upon any land, structure or premises to carry out works, investigations or surveys he shall save where he has the permission of the occupier or person in charge of that land, structure or premises to his entry, give to the occupier not less than 7 days written notice of his intention to enter to carry out such works, investigations or surveys.

28. Interference with roads. (1) For the purpose of constructing, maintaining, repairing, altering or extending any main or installation in a road within or outside the operational area the Board may open up and excavate such road but, in connexion with the performance of such work, the Board shall comply with this section.

(2) Save in the case of work to be performed in an emergency the Board shall give not less than seven days notice in writing to the authority having the care and management of the road of its intention to perform the work in question.

In the case of work to be performed in an emergency the work may proceed without the prescribed notice having been given but advice shall be given as soon as practicable to the authority referred to in this subsection that the work is in progress.

(3) When the Board has opened and excavated a road it shall—

- (a) with all convenient speed and as little interference to traffic as is practicable, complete the work for which it is opened and excavated and shall fill in the ground and reinstate and make good the parts so opened and excavated to as good a condition as before it was opened and excavated and shall carry away all rubbish occasioned by the work;
- (b) at all times while the road is opened and excavated, cause the parts so opened and excavated to be fenced and guarded and a light sufficient for the warning of traffic to be set up and maintained against or near such parts every night during which the road is opened and excavated; and
- (c) keep the parts so opened and excavated in good repair for three months after reinstating and making good the same and for any further time not exceeding 12 months during which the soil opened and excavated continues to subside.

29. Board may take over or acquire Local Authority undertakings.

(1) Subject to this Act, the Board may—

- (a) assume from a Local Authority control of any headworks in the operational area;
- (b) acquire from a Local Authority property used for or in connexion with any headworks in the operational area;
- (c) assume from a Local Authority its liabilities and obligations had by it in connexion with any headworks in the operational area.

(2) The powers conferred by subsection (1) do not extend to the assumption of control of headworks, acquisition of property or assumption of liabilities or obligations of a Local Authority that is not one specified in the schedule.

30. Board to instigate exercise of powers under s. 29. (1) For the purpose of exercising its powers under section 29 the Board may, by notice in writing given to a Local Authority, require the Local Authority to enter into negotiations for—

- (a) the assumption of control by the Board of headworks described in the notice;
- (b) the acquisition by the Board of property described in the notice; and
- (c) the surrender to the Board of books, documents, drawings, records and papers relating to such headworks or property.

(2) Upon receipt of a notice referred to in subsection (1) the Local Authority shall cause to be prepared schedules of the headworks or property described in the notice and of property held by it in connexion with the headworks and of the liabilities and obligations had by it in relation to the headworks or the property.

(3) As soon as practicable after the preparation of the schedules referred to in subsection (2) the Board and the Local Authority shall, if possible, agree upon—

- (a) what headworks shall be controlled by the Board;
- (b) what property, liabilities and obligations of the Local Authority shall be acquired or assumed by the Board; and
- (c) what books, documents, drawings, records and papers shall be surrendered by the Local Authority to the Board.

31. Procedure for taking over control. (1) Upon the Board and a Local Authority agreeing on the assumption by the Board of control of headworks of the Local Authority they shall furnish to the Minister a joint notification that shall identify the headworks concerned.

(2) The Governor in Council may by Order in Council declare a date on and from which control of the headworks therein specified shall be assumed by the Board.

A date declared pursuant to this subsection may be before or after the date of making of the Order in Council or of its publication in the Gazette.

(3) On and from the date so declared the Board shall be responsible for the control, management and proper functioning of the headworks so specified in place of the Local Authority concerned.

32. Procedure for acquisition of property or assumption of liabilities.

(1) Upon the Board and a Local Authority agreeing with respect to—

(a) the property of the Local Authority to be acquired by the Board; or

(b) the liabilities and obligations of the Local Authority to be assumed by the Board,

they shall furnish to the Minister a joint notification that shall particularize in detail sufficient to enable its identification such property or, as the case may be, such liabilities and obligations.

(2) The Governor in Council may by Order in Council declare a date on and from which—

(a) the property therein specified shall be divested from the Local Authority named therein and shall vest in the Board; or as the case may be,

(b) the liabilities and obligations therein specified shall be assumed by the Board and shall cease to be liabilities or obligations of the Local Authority named therein.

A date declared pursuant to this subsection may be before or after the date of the making of the Order in Council or of its publication in the Gazette.

(3) Upon and after the date so declared—

(a) the estate, right, title and interest in and to the property so specified shall by force of the order be divested from the Local Authority so named and be vested in the Board;

(b) the Board shall by force of the order be liable in respect of each of the liabilities and obligations so specified and the Local Authority so named shall by force of the order cease to be liable in respect thereof.

33. Enforcement of existing claims. Subject to the express provisions of the Order in Council made in relation to a transfer of control or of property or of a liability or obligation from a Local Authority to the Board pursuant to section 31 or 32 such a transfer shall not prejudice the making or enforcement by the Local Authority against any person or by any person against the Local Authority of a claim liquidated or unliquidated that arose or was made before the date declared by such order for such transfer to take effect.

34. Presumed privity of contract. Where property (being a chose in action) or a liability or obligation transferred from a Local Authority to the Board pursuant to section 32 arises by reason of a contract made between the Local Authority and any person then for the purpose of enforcing by or against the Board such chose in action, liability or obligation it shall be deemed that such contract was made between the Board and that person.

35. Board to be aided in securing property. (1) Upon the request of the Board, a Local Authority that is divested of property pursuant to section 32—

- (a) shall surrender to the Board or its agent such documents of title and documents evidencing ownership of the property as are in its possession or under its control;
- (b) shall duly complete all transfers of right, title or interest and other documents that are required by the Board with a view to its being recorded in any registry as proprietor, lessee or owner of the property;
- (c) shall do all such acts and take all such steps as are required by the Board with a view to securing the property to the Board.

(2) Where property vested in the Board pursuant to section 32 consists of a chose in action the publication in the Gazette of the relevant Order in Council shall be sufficient notice to all persons of the passing of the property.

36. Prescribed enactments inapplicable to dealings under this Act.

(1) No stamp duty or other fees shall be chargeable on the following documents:—

- (a) a notification evidencing an agreement between a Local Authority and the Board prepared for the purpose of section 32;
- (b) an instrument made to evidence the passing of an estate or interest in land from a Local Authority to the Board pursuant to section 32 or to secure the transfer of a title to such land;
- (c) a document made in connexion with the transfer of property, liability or obligation from a Local Authority to the Board pursuant to section 32.

(2) The provisions of any Act or enactment that purport to restrict the capacity of a Local Authority to enter into contracts do not apply in respect of the making of an agreement between a Local Authority and the Board with a view to the passing of property or the transfer of liabilities or obligations pursuant to section 32.

37. Apportionment of liability. Where for the purposes of this Act it becomes necessary to apportion between a Local Authority and the Board any liability or obligation of the Local Authority such apportionment may be made and shall be sought by way of agreement between the Local Authority and the Board but should such agreement not be attained the Governor in Council may declare the apportionment of that liability or obligation considered by him to be just and thereupon—

- (a) the portion of that liability or obligation to be assumed by the Board shall be the portion so declared; and

- (b) if the case require it, it shall be deemed that such portion is particularized in a notification duly furnished pursuant to section 32 as the liability or obligation to be assumed by the Board.

38. Procedure upon absence of agreement. (1) If in any case the Board and a Local Authority fail to agree—

- (a) upon the assumption of control by the Board of headworks of a Local Authority;
- (b) as to the property of a Local Authority to be acquired by the Board;
- (c) as to the liabilities and obligations of a Local Authority to be assumed by the Board; or
- (d) as to the books, documents, drawings, records and papers to be surrendered by a Local Authority to the Board,

the issue shall be referred to the Minister.

(2) The Minister may cause an investigation of the issue to be made by some competent person who shall report thereon to the Minister.

(3) For the purpose of an investigation referred to in subsection (2) the person making the same may require the Local Authority concerned and its officers to produce for his examination such accounts, extracts, books, documents and records and to furnish to him such explanations as he considers necessary to enable him to make a proper investigation and the Local Authority and every officer to whom a requisition is directed shall comply with it to the best of its or his ability.

(4) Upon receipt of the report of an investigation under this section the Minister shall make to the Governor in Council such recommendations as he thinks fit and upon such recommendations the Governor in Council may determine the issue.

Notification of the determination of the Governor in Council shall be given by the Minister to the Board and the Local Authority concerned and the determination shall be binding upon them and they shall take all steps necessary to give effect to it.

39. Exercise of power under s. 29 not affected by partial disagreement. The exercise by the Board of a power conferred by section 29 shall not be prejudiced nor shall it be necessary to delay publication in the Gazette of an Order in Council pursuant to section 31 or 32 by reason of the absence of agreement between the Board and a Local Authority—

- (a) as to the inclusion of a particular item of headworks or of property or a particular liability or obligation in the exercise of the power;
- (b) as to the amount or proportion of a particular liability or obligation to be assumed by the Board; or
- (c) as to which books, documents, drawings, records and papers should be surrendered.

PART V—SUPPLY AND USE OF WATER

Division 1—Control of Water

40. Board's entitlement to water. (1) Subject to this section the Board may take water from any headworks under its control or from any river, creek or stream, whether or not subject to tidal influence in the operational area or, with the approval of the Governor in Council, outside the operational area and for that purpose may construct, maintain, control and operate such headworks and trunk mains as it considers necessary.

(2) The Board shall not take water pursuant to subsection (1) unless—

- (a) it does so with the consent of the Governor in Council first had and obtained and subject to and in accordance with the terms and conditions of such consent; or
- (b) where the consent of the Governor in Council has been obtained by a Local Authority to its taking water and the Local Authority's entitlement to take such water has been divested from the Local Authority and vested in the Board pursuant to section 43, subject to and in accordance with the terms and conditions of that consent.

41. Procedure for obtaining consent. (1) Application for the consent of the Governor in Council shall be made by the Board to the Director who shall refer the matter to the Commissioner of Water Resources for investigation.

(2) The Commissioner shall cause an investigation to be made with respect to the application and shall make a report and recommendation for submission by the Minister to the Governor in Council.

(3) The Governor in Council may in his absolute discretion grant or refuse an application and, if he grants it, may subject his consent to such terms and conditions as he thinks fit.

42. Protection of Board upon taking water. No action or other proceeding shall be commenced or maintained against the Board or any other person on account of—

- (a) the construction, maintenance, control or operation of headworks, or any part thereof, for the purpose of taking water pursuant to this Act;
- (b) any alleged obstruction of any river, creek or stream by such headworks or any part thereof;
- (c) any deprivation of access to or diminution of the quantity of water in any river, creek or stream occasioned by the exercise by the Board of a power conferred by section 40.

43. Cessation of Local Authority's entitlement to water. (1) Subject to subsection (2)—

- (a) upon the Board assuming control of Somerset Dam or Wivenhoe Dam, whichever is the earlier, the entitlement then had by a Local Authority to take water from either dam or from the

Brisbane River or the Stanley River downstream from Somerset Dam shall thereupon be divested from the Local Authority and vest in the Board;

- (b) upon the Board assuming control of North Pine Dam the entitlement then had by a Local Authority to take water from the dam or from the North Pine River downstream from the dam shall thereupon be divested from the Local Authority and vest in the Board;
- (c) upon the Board assuming control of headworks upon other rivers, creeks or streams the entitlement then had by a Local Authority to take water from such headworks or downstream from such headworks shall thereupon be divested from the Local Authority and vest in the Board.

(2) Subsection (1) does not apply in relation to the entitlement of the Council of the Shire of Esk to take water for the supply of water referred to in sections 45 and 46.

(3) Save as is prescribed by subsection (1), neither this Act nor anything done under this Act shall affect the entitlement of a Local Authority to take water from any river, creek or stream or other source of supply.

44. Protection of Local Authority water undertaking. (1) Where anything to be done by the Board is likely to affect adversely headworks of a Local Authority or of a Water Board, of which headworks the Board does not seek to assume control, the Board shall, at its own expense and as part of the cost of doing that thing, take such steps as are necessary to ensure a continued supply of water to the Local Authority or Water Board without occasioning additional expense to the Local Authority or Water Board and on such terms and conditions as are agreed upon by the Board and the Local Authority or, as the case may be, Water Board.

(2) In the absence of agreement upon the terms and conditions referred to in subsection (1) the terms and conditions shall be such as are determined by the Governor in Council on the recommendation of the Minister.

45. Provisions as to water supply to Esk. (1) Headworks from which the Council of the Shire of Esk takes its supply of water for distribution to the town of Esk shall continue to be the responsibility of that council for as long as the headworks vest in that council.

(2) The Board shall reconstruct, at no cost to the Council of the Shire of Esk, such part of the headworks referred to in subsection (1) as will be inundated and thereby rendered inoperative by the waters of the dam proposed to be called the Wivenhoe Dam.

Such reconstructed headworks shall vest in the Council of the Shire of Esk.

(3) Unless the Board assumes control of the headworks referred to in subsection (1) the Council of the Shire of Esk shall not be charged for water taken by it from the Wivenhoe Dam in place of water previously taken by it until the quantity of water so taken exceeds 220 megalitres per annum.

When the quantity of water so taken exceeds or is expected to exceed such specified quantity the allocation and supply of such excess shall be subject to agreement between the Council of the Shire of Esk and the Board pursuant to section 61.

46. Provisions as to water supply to Lowood. (1) Headworks from which the Council of the Shire of Esk takes its supply of water for distribution to the town of Lowood shall continue to be the responsibility of that council for as long as the headworks vest in that council.

(2) Unless the Board assumes control of the headworks referred to in subsection (1) the Council of the Shire of Esk shall not be charged for water passed downstream from the Wivenhoe Dam and withdrawn at the headworks for supply until the quantity of water so taken exceeds 270 megalitres per annum.

When the quantity of water so taken exceeds or is expected to exceed such specified quantity the allocation and supply of such excess shall be subject to agreement between the Council of the Shire of Esk and the Board pursuant to section 61.

47. Provisions as to water supply to Glamorgan Vale Water Supply Area. (1) Headworks from which Glamorgan Vale Water Board takes its supply of water for distribution to the Glamorgan Vale Water Supply Area shall continue to be the responsibility of that Board for as long as the headworks vest in that Board.

(2) Unless the Brisbane and Area Water Board assumes control of the headworks referred to in subsection (1) the Glamorgan Vale Water Board shall not be charged for water passed downstream from the Wivenhoe Dam and withdrawn at the headworks for supply until the quantity of water so taken exceeds 250 megalitres per annum.

When the quantity of water so taken exceeds or is expected to exceed such specified quantity the allocation and supply of such excess shall be subject to agreement between the boards pursuant to section 61.

48. Allocations of water. (1) Subject to this Act, the Board may from time to time fix and declare an allocation of water—

(a) to each Local Authority whose Area or a part of whose Area is within the operational area; or

(b) with the prior approval of the Minister, to a Local Authority whose Area is outside the operational area, or to an electricity generating authority if in any case the Local Authority or generating authority seeks an allocation of water from the Board; or

(c) to a Water Board constituted under the *Water Act* 1926–1979.

Where an allocation of water to a Local Authority has been fixed and declared the Board may at any time, of its own motion, fix and declare afresh an allocation of water to that Local Authority.

(2) In the matter of—

(a) fixing and declaring allocations of existing supplies of water from headworks under the control of the Board; and

- (b) planning headworks to meet increasing requirements for supply of water for urban use,

the Board shall have regard to the need for water of the operational area as a whole and to all existing requirements for and commitment of water for urban use drawn from sources within the operational area or supplied within the operational area from sources outside the area.

(3) In the matter of fixing and declaring from time to time an allocation of water to the Council of the Shire of Pine Rivers from headworks under its control the Board shall make due allowance for the quantity of water which that Local Authority is obliged to supply to Australian Paper Manufacturers Ltd. at Petrie in terms of any agreement existing at the material time between that Local Authority and that company, in addition to the quantity of water which that Local Authority may be obliged to supply to that company from Lake Kurwongbah.

(4) The Board may make the matter of fixing and declaring an allocation of water to a Local Authority dependent upon that Local Authority satisfying the Board by means of an agreement or agreements made or to be made with one or more other Local Authorities that it is or will be bound to convey and to continue to convey, through mains within its Area, to such other Local Authority or Local Authorities, being in any case an authority to which an allocation of water has been or is to be fixed and declared by the Board, a determinate part of the allocation to the first-mentioned Local Authority.

49. Exchange of information on water requirement. (1) Each Local Authority whose Area or part of whose Area is within the operational area shall keep the Board informed of—

- (a) anticipated requirements for water to service development of its Area or the part thereof that is included in the operational area; and
- (b) all relevant facts concerning the proposed source of supply for such requirements for water and the anticipated dates when increased quantities of water to meet such requirements may be required.

(2) The Board shall from time to time inform each Local Authority whose Area or part of whose Area is within the operational area of the likelihood of its requirements for water, as disclosed to the Board, being met by the Board.

50. Solution of disputes between Board and Local Authority. If a dispute arises between the Board and a Local Authority as to—

- (a) the quantity of water that will be allocated to the Local Authority; or
- (b) the timing, source or other aspect of supply of water to the Local Authority,

either party may refer the matter in issue to the Minister who may cause to be made such investigations as he considers necessary and who shall make such recommendations with respect thereto as he thinks fit to the Governor in Council who shall determine the issue by Order in Council.

(2) A determination of the Governor in Council pursuant to subsection (1) shall bind the Board and the Local Authority concerned, both of whom shall take all steps necessary to give effect to it.

51. Use of Local Authority works. For the purpose of performing its function as a supplier of water to Local Authorities the Board may agree with a Local Authority that works that are the property of the Local Authority shall be used to carry supplies of water to another Local Authority.

52. Solution of disputes as to use of works. (1) If a dispute arises between the Board and a Local Authority concerning the use of works referred to in section 51 either party may refer the matter in issue to the Minister who may cause to be made such investigations as he considers necessary and who shall make such recommendations with respect thereto as he thinks fit to the Governor in Council who shall determine the issue by Order in Council.

(2) A determination of the Governor in Council pursuant to subsection (1) shall bind the Board and the Local Authority concerned, both of whom shall take all steps necessary to give effect to it.

53. Board may assist Local Authority in distributing water. If the Board's assistance is sought by a Local Authority in respect of the distribution of a supply of water within or through its Area and within the operational area the Board may provide such assistance on such terms and conditions as are agreed.

Division 2—Protection of Water Quality

54. Regulation of use of catchment area. (1) For the purpose of protecting the quality of water stored or to be stored in a reservoir of which the Board has assumed control or which it has constructed, is constructing or proposes to construct, the Governor in Council may make regulations pursuant to section 134 to regulate, control and prohibit—

- (a) the subdivision, use and management of use of land within a catchment area (as defined in the regulations) for such reservoir or within particular parts of such catchment area; and
- (b) the erection and use of buildings and structures on such land.

(2) Subject to consultation first had between the Minister, the Board and each Local Authority whose Area includes land that is included in or is proposed to be included in the catchment area (defined or to be defined in the regulations) regulations made pursuant to the power conferred by subsection (1) may prescribe guidelines to be observed by the Local Authority to whom the regulatory provision is directed in respect of the preparation or amendment of a town planning scheme, the making of by-laws and the implementation of a town planning scheme or by-laws, which in any case affects or is likely to affect land within such catchment area.

55. Effect of regulations under s. 54 on powers, etc. (1) Subject to subsection (2), a power or authority had by the Board, a Local Authority or other person, independently of regulations referred to in section 54, to take steps to protect the quality of water stored or to be stored in any reservoir shall not be prejudiced by the conferring by section 54 of power to make regulations therein referred to or by such a regulation made.

(2) If a regulation made pursuant to the power conferred by section 54 is inconsistent with the continued existence, wholly or in part, of a power or authority of a description referred to in subsection (1), other than a power or authority conferred by or under the *Clean Waters Act* 1971-1976, the regulation shall prevail and, to the extent of the inconsistency, such power or authority shall be taken not to exist.

(3) Regulations made pursuant to the power conferred by section 54 shall bind the Board, each Local Authority whose Area includes land to which the regulations relate and all other persons of a class that the regulations purport to bind.

56. Effect of regulations under s. 54 on rights. (1) If a regulation made pursuant to the power conferred by section 54 is inconsistent with the continued existence, wholly or in part, of a right or entitlement to use or develop land within the catchment area to which the regulation relates, had by any person at the time the regulation takes effect, the regulation shall prevail and, to the extent of the inconsistency, such right or entitlement shall be taken to have terminated upon the taking effect of the regulation.

(2) A right or entitlement terminated under subsection (1) shall, upon such termination and to the extent thereof, be converted into an entitlement to claim compensation in respect of injurious affection of an estate or interest in land as if the regulation were a lawful provision of a town planning scheme of the Local Authority in whose Area the land affected is situated.

57. Effect of regulations on town planning applications. (1) Notwithstanding the provisions of any other Act or of any town planning scheme or by-law of a Local Authority, which in any case affects land to which regulations made pursuant to the power conferred by section 54 relate, where application is made to a Local Authority—

- (a) to amend its town planning scheme in a particular that affects such land; or
- (b) for its consent to the use of such land for a particular purpose; or
- (c) for a permit or licence to apply such land to a particular use; or
- (d) for its approval to a subdivision of such land,

the Local Authority shall observe the guidelines prescribed by such regulations.

(2) Any approval, consent, permit or licence of a Local Authority that is given in contravention of subsection (1) shall be of no force or effect.

58. Board's liability for certain injurious affection. Where a claim for compensation in respect of injurious affection of an estate or interest in land is made on a Local Authority by reason of the existence of regulations made pursuant to the power conferred by section 54 or by reason of a decision or action of the Local Authority taken in reliance on or obedience to such regulations and the Local Authority is required or, with the prior approval in writing of the Board, agrees to pay compensation to the claimant the amount of such compensation together with the amount of taxed costs (if any) shall be met by the Board and, if the case require it, shall be refunded by the Board to the Local Authority.

Division 3—Discontinuance or Lessening of Supply of Water

59. Board's power over supply. Where in the opinion of the Board a breakdown of or damage, repairs, alterations or additions to the Board's works, mains, machinery or plant, or drought or other natural occurrence, or an emergency of any description renders it necessary or expedient to discontinue or lessen the supply of water in the operational area or a part of that area or outside the operational area the Board may, on such notice as it thinks fit or without notice, direct such discontinuance or lessening of supply for such period as it considers necessary or expedient.

It shall be lawful to give effect to a direction of the Board given under this section.

60. Manner of exercising s. 59 power. (1) The Board's power to discontinue or lessen the supply of water under section 59 shall be exercised—

- (a) by resolution of the Board; or
- (b) where the Board has, by its resolution, delegated authority in that behalf to the Chairman or an officer of the Board or to a committee of the Board, by decision of the Chairman or that officer or, as the case may be, by resolution of that committee.

(2) Notice of the exercise of power under section 59 shall be served forthwith on each Local Authority whose Area or a part of whose Area is or is likely to be affected by the discontinuance or lessening of supply to which the notice relates and, where the operation of the Glamorgan Vale Water Board is or is likely to be so affected, on that board.

PART VI—FINANCIAL PROVISIONS*Division 1—Power to Charge for Water*

61. Water to be supplied under agreement. (1) Allocation or supply of water by the Board to a Local Authority shall be subject to agreement between the Board and the Local Authority to whom the water is to be allocated or supplied providing for—

- (a) the quantities of water that may be allocated or supplied from time to time under the agreement and the method or methods to be employed in measuring such quantities;
- (b) the basis on which the price of the water to be allocated or supplied under the agreement is to be established and on which the price may be varied from time to time;
- (c) the frequency at which payments shall be made for the allocation or supply of water under the agreement.

(2) If in the course of negotiating an agreement for the purposes of subsection (1) a dispute arises between the Board and a Local Authority to whom water is to be supplied either party to the dispute may refer the matter in issue to the Minister who may cause to be made such investigations as he considers necessary and who shall make such recommendations with respect thereto as he thinks fit to the Governor in Council who shall determine the issue by Order in Council.

(3) A determination of the Governor in Council pursuant to subsection (2) shall bind both the Board and the Local Authority to whom the water is to be allocated or supplied and shall be given effect in the agreement made concerning the allocation or supply of water.

62. Extended meaning of "Local Authority". In this Division the expression "Local Authority" includes an electricity generating authority and a Water Board constituted under the *Water Act* 1926-1979.

Division 2—Power to Borrow Money

63. General power to borrow. (1) Subject to this Act, the Board may borrow money—

(a) from the Treasurer; or

(b) by the sale of debentures or inscribed stock.

(2) Before entering into negotiations to borrow money by sale of debentures or inscribed stock the Board shall obtain the sanction of the Treasurer authorizing it to enter upon such negotiations and for this purpose shall furnish the Treasurer with such information as he requires.

(3) The Board shall not borrow money pursuant to negotiations sanctioned by the Treasurer unless the authority of the Governor in Council to do so is first obtained.

In the case of a loan to be raised in whole or in part by the sale of debentures or inscribed stock, such authority, if given, shall be given by way of Order in Council, which shall declare the amount that may be borrowed, the currency of the loan, the rate of interest thereon, the terms and conditions for the loan's redemption whether by yearly, half-yearly or quarterly payments or by payments into a sinking fund and such other conditions as the Governor in Council thinks proper to impose.

64. Resolution before borrowing. Before proceeding to borrow money the Board shall, at a special meeting called for the purpose, pass a resolution to borrow that money.

65. Board may give security. The Board, with the approval of the Governor in Council, may create such encumbrances upon and over its property and revenues and execute in respect thereof such securities as it thinks fit.

66. Application of loan moneys. (1) All moneys borrowed by the Board shall be expended for the purpose for which it was authorized to borrow the same and not otherwise save with the Treasurer's direction given pursuant to subsection (2).

(2) If any amount of a loan remains unexpended upon the completion of the purpose for which the loan was borrowed such amount shall be applied as the Treasurer directs.

67. Repayment of Treasury loans. (1) Every loan advanced by the Treasurer to the Board shall be liquidated by the payment to the Treasurer by the Board on the first day of January and of July in each year of such instalments of principal and interest at the agreed rate as will permit the loan to be wholly redeemed within the period of the loan and such instalments shall continue to be payable until all moneys advanced from time to time by the Treasurer by way of that loan together with the interest accrued thereon have been so paid.

The Treasurer may at any time make any adjustment that he considers necessary to be made with respect to the period of any loan or the calculation of interest thereon or with respect to any other matter connected with the loan that in his opinion requires adjustment.

(2) In the months of February and August in each year the Treasurer shall cause to be published in the Gazette a statement showing—

- (a) with respect to any loan that has been advanced by him to the Board the amount of money that is then overdue and in arrear and also the total of the principal sum then remaining unpaid;
- (b) with respect to any money paid by him under a guarantee given by him in relation to moneys borrowed by the Board the amount of money that has not then been reimbursed to him on account of such payment.

If thereafter on the last day of April or October respectively any part of such money so overdue or in arrear or outstanding remains unpaid, the Treasurer may, by notification in the Gazette, appoint a receiver to collect on his behalf and to pay to the Treasury all or any moneys from time to time due and owing to the Board to the amount stated in such notification.

(3) The Treasurer may from time to time make all such orders and give all such directions with respect to the powers and duties of the receiver and the management by him of the business of the Board as he thinks fit and judicial notice shall be taken of all such orders and directions.

(4) On and from the date specified in the notification of his appointment the receiver shall be the only person legally entitled to receive the revenues of the Board and it shall be deemed to that extent and for that purpose that he is an accountable officer within the meaning of the *Financial Administration and Audit Act 1977-1978* and that the Board is his department.

68. Debentures and stock. (1) All debentures and inscribed stock issued under the authority of this Act—

- (a) shall, subject to this Act, be issued in such series or sold in such amounts or parcels at such times and places in or outside the State and in such manner as the Board thinks fit;
- (b) shall, with interest thereon, be a charge on the revenues of the Board subject to any prior debentures or stock issued by the Board according to law;
- (c) shall bear interest at the rate and be redeemable at such date or dates and at such place or places in or outside the State as prescribed in the Order in Council referred to in section 63 (3) made in respect of the loan to which the debentures or stock relate;
- (d) may, in the case of debentures with the consent of the holder or in the case of inscribed stock with the consent of the registered owner, be paid off at any time before the due date for payment at not more than the amount of the principal remaining unpaid at the time or, with the consent of the Governor in Council, at a premium with interest thereon to the date of payment only.

(2) Interest secured by debentures or inscribed stock shall be payable at such times and at such place or places in or outside the State as prescribed in the Order in Council referred to in section 63 (3) made in respect of the loan to which the debentures or stock relate.

(3) Every debenture issued under the authority of this Act—

- (a) shall be sealed with the seal of the Board and signed by the Chairman and the secretary and when so sealed and signed shall be taken to have been duly issued;
- (b) shall be numbered consecutively so that no two debentures in one and the same series shall at any time bear the same number;
- (c) shall have set forth therein the places and times at which the principal and interest are payable.

(4) When a debenture issued under the authority of this Act is not transferable by delivery that fact shall be expressly stated on its face.

(5) In the case of a debenture issued under the authority of this Act with coupons the holder of such a coupon, whether the same be separate from the debenture or not, shall be entitled to receive payment from the Board of the sum named therein upon presentation on or after the due date for payment at the place where the same is expressed to be made payable.

(6) In the case of a debenture issued under the authority of this Act without coupons the lender or in the event of a transfer of such debenture the transferee for the time being shall, subject to this subsection, be entitled to receive payment from the Board in respect of principal and interest in accordance with the terms and conditions of such debenture.

A transferee in respect of whom the Board has not been given notice as prescribed shall not be entitled to receive and the Board shall not be liable to make to such a transferee any payment in respect of a debenture issued without coupons except under attachment by process of law and then only to the extent of moneys due and payable to such transferee under the debenture and unpaid by the Board to the lender or a prior transferee.

The entitlement of a transferee in respect of whom the Board has been given notice as prescribed to receive payment in respect of a debenture issued without coupons shall be subject to any payment which, having become due and payable under such debenture before the Board was given such notice, was made by it to the lender or a prior transferee.

In this subsection the expression "notice as prescribed" means a notice in writing signed by the transferor and transferee and verified to the satisfaction of the Board.

69. Remedies of debenture holder. (1) If the Board makes default in making a payment whether of principal or interest to the holder of a debenture or coupon issued by it or to the owner of stock inscribed by it under the authority of this Act—

- (a) the holder or registered owner may make application to and procure all necessary orders and directions from the Supreme Court for the appointment of a receiver and such court shall have jurisdiction to make all such orders for the appointment of a receiver and for his removal and the appointment of another in his place as may be necessary and to make any orders and give any directions which such court considers proper; or

- (b) the person to whom such payment should have been made may recover the amount in respect of which default has been made as a debt by action against the Board in a court of competent jurisdiction.

(2) A receiver appointed under subsection (1) shall be deemed to be an officer of the court and shall act under its direction and may be appointed in respect of the general revenue of the Board or in respect of specified revenue.

70. Powers and duties of receiver. (1) A receiver appointed by the Treasurer or the Supreme Court may collect all the revenue payable to the Board in respect of which revenue he was appointed receiver and for the purpose of enforcing his right to such revenue he shall be deemed to be the Board and may exercise all of its powers.

(2) A receiver shall pay and apply all moneys received by him in the course of his receivership as follows:—

- (a) Firstly, in payment of the costs, charges and expenses of collection and of his remuneration;
- (b) Secondly,
 - (i) if he was appointed by the Treasurer, in payment of the amount due and payable to the Treasurer or, as the case may be, of the amount required to reimburse the Treasurer with respect to any money paid by him under a guarantee given by him in relation to moneys borrowed by the Board together with interest on such amount at a rate specified by the Treasurer;
 - (ii) if he was appointed by the Supreme Court, in payment, subject to any order of the court, to the holder of a debenture or coupon or owner of the inscribed stock upon whose application he was appointed or to the holders or owners of debentures or coupons or stock of the same series as such holder or owner or to the holders or owners of debentures or coupons or stock generally in such order of priority as the court thinks fit the amount due and payable to such holder or owner or, as the case may be, holders or owners;
- (c) Thirdly, in payment of the residue of such moneys to the Board.

71. Remuneration of receiver. (1) A receiver appointed by the Treasurer shall be entitled to such commission and remuneration for his services as the Treasurer orders.

(2) A receiver appointed by the Supreme Court shall be entitled to such commission and remuneration as the court orders.

72. Brokerage. (1) Subject to this subsection, the Board may pay moneys by way of brokerage in respect of making, procuring, negotiating or obtaining the loan of any moneys that the Governor in Council has authorized it to borrow.

Moneys shall not be paid by way of brokerage in respect of any loan unless the Treasurer has approved the payment of brokerage in respect of that loan, which approval may be given by the Treasurer subject to such terms and conditions as he thinks fit.

(2) Section 14 of the *Money Lenders Act* 1916–1973 shall not apply or extend to brokerage which the Board is authorized by this section to pay and which is agreed to be paid by the Board subject to the terms and conditions (if any) imposed by the Treasurer.

73. (1) Loan to be authorized investment. Unless expressly forbidden by the instrument (if any) creating the trust, an investment by a trustee of trust funds in a loan raised under the authority of this Act shall be an authorized investment within the meaning of the *Trusts Act* 1973.

(2) Notice of trusts not to be received. The Board or any agent of the Board shall not receive and shall be deemed to have not received notice of any trust express, implied or constructive in relation to any debentures issued or stock inscribed under the authority of this Act and the Board or any agent of the Board, shall not be bound to see to the execution of any trust to which such debenture or stock may be subject.

(3) Lender not bound to enquire as to validity of security. A person who lends money to the Board and receives in consideration therefor any debentures duly sealed and signed as prescribed or the Board's certificate as to inscription of stock in his name shall not be bound to enquire whether the borrowing of the money was in fact duly authorized or into the application of the money so lent and he shall not be in any way responsible for the non-application or misappropriation thereof.

74. Board to be Local Body. The Board shall be a local body under and within the meaning of the *Local Bodies' Loans Guarantee Act* 1923–1975, the provisions of which Act shall apply and extend accordingly subject to such modifications as the Governor in Council prescribes generally by regulations or in respect of a particular loan by Order in Council.

75. Regulations relating to loans. The power conferred on the Governor in Council by this Act to make regulations includes power to make regulations relating to the raising and repayment of loans under the authority of this Act and, without limiting the generality of the foregoing power—

- (a) providing for the establishment of a registry for the inscription of stock, prescribing the form of and the manner of issuing debentures or inscribing stock, providing for the keeping and inspection of and the taking of copies of or extracts from the register of debentures or stock ledgers and providing for lost or defaced debentures or coupons or stock certificates and the destruction of discharged debentures, coupons or stock certificates;
- (b) prescribing matters relating to the raising of loans outside the State;
- (c) providing for sinking funds and other methods for the repayment of moneys borrowed, providing for and appointing trustees of a debt redemption fund with respect to such repayment and prescribing the powers, functions and duties of such

trustees and regulating and controlling all or any matters with respect to such debt redemption funds, trustees, sinking funds or other methods aforesaid.

76. Illegal borrowing. (1) A person who lends money to the Board otherwise than in accordance with this Act or some other Act shall have no remedy or right whatsoever to recover money from the Board in respect of that loan.

(2) The provisions of subsection (1) shall be construed so as not to prejudice the operation of section 73 (3).

(3) If the Board borrows money which it is not legally authorized to borrow, the members who consented to the borrowing shall be jointly and severally liable to repay the same and to pay all interest thereon to the lender and the same may be recovered from such members or any of them as money lent by the lender to each of such members and as due and owing by each of such members to the lender by action in a court of competent jurisdiction.

(4) If moneys are appropriated from the Operating Fund or other of the Board's funds for the purpose of repaying money illegally borrowed or of paying interest thereon, the members who consented to the appropriation for that purpose shall be jointly and severally liable to refund the same with interest at the rate of \$8 per centum per annum and the same may be recovered from such members or any of them as money due and owing as a debt to the Board by each of such members by action in a court of competent jurisdiction at the suit of any creditor of the Board who, upon recovery of any such moneys shall pay the amount recovered into the fund of the Board from which the moneys were appropriated and who shall be entitled to his costs of suit including costs as between solicitor and client.

(5) If the Board borrows money which it is not legally authorized to borrow or purports or attempts to bind itself or its successors to repay money borrowed which it is not legally authorized to borrow or to pay interest thereon, each member who consented to such borrowing or to such purporting or attempting shall be taken to have committed an offence against this Act and is liable to a penalty not exceeding \$400.

Where a member of the Board is convicted of an offence defined in this subsection—

- (a) his liability to the penalty prescribed is in addition to any liability he may have in relation to the moneys borrowed under subsection (3);
- (b) the person who takes action to recover the penalty prescribed is entitled to his costs of suit including costs as between solicitor and client; and
- (c) any amount of penalty recovered shall be paid into the Operating Fund of the Board.

77. Temporary accommodation on overdraft. The Board may obtain advances from a bank for temporary accommodation in the Operating Fund and Capital Works Fund by way of overdraft in its current account.

Division 3—Funds of Board

78. Funds to be maintained. The Board shall establish and maintain in accordance with this Act the following funds:—

- (a) an Operating Fund;
- (b) a Reserve Fund;
- (c) a Capital Works Fund;
- (d) a Trust Fund; and
- (e) any other Fund that may be prescribed from time to time.

Except as may be prescribed the funds shall be separate and distinct and a separate bank account shall be kept for each fund.

79. Operating Fund. (1) The Board shall pay or cause to be paid into the Operating Fund—

- (a) all moneys payable to it on account of charges for water supplied or allocated;
- (b) all penalties, fees and charges payable to it under this Act;
- (c) all moneys paid to it by way of grant or subsidy or otherwise other than such moneys as are, by this Act, required to be paid to any other fund.

(2) Moneys from time to time forming the Operating Fund shall be applied to—

- (a) expenditure necessarily incurred by the Board in the discharge of its functions, the exercise of its powers and the performance of its duties other than expenditure that is, by this Act, required to be met from some other fund of the Board;
- (b) payment in accordance with this Act of moneys from that fund to any other fund of the Board.

80. Reserve Fund. (1) The Board shall pay or cause to be paid into the Reserve Fund—

- (a) the whole or part of any surplus in the Operating Fund that the Board resolves shall be transferred to the Reserve Fund;
- (b) moneys set aside from the Operating Fund to meet any future liability of the Board, whether certain or contingent, and, if the Board so resolves, interest earned on such moneys.

(2) Moneys from time to time forming the Reserve Fund—

- (a) if such moneys form part of a specific reserve, shall be applied to the liability or purpose of the Board for which the specific reserve was established;
- (b) if such moneys do not form part of a specific reserve, may be applied
 - (i) to the replacement of assets of the Board or the acquisition of further assets for the purposes of the Board;
 - (ii) to a liability or purpose of the Board for which a reserve might properly be established.

(3) The Board may, by its resolution and subject to the regulations—

- (a) discontinue a reserve established by it; or
- (b) continue a reserve established by it for a purpose other than the purpose for which the reserve was established.

Where the Board exercises the power specified in paragraph (b), the reserve in question shall be taken to have been established for the purpose last resolved by the Board and may be applied accordingly.

Where a reserve is discontinued or is applied to the purpose for which it was established and there is a residue of moneys in that reserve the moneys then forming part of the reserve shall be transferred to the credit of the Operating Fund.

81. Capital Works Fund. (1) The Board shall pay or cause to be paid into the Capital Works Fund all moneys—

- (a) received by it by way of loan raisings under this Act or by way of grant or subsidy from any source;
- (b) duly provided from any other fund of the Board; or
- (c) received by it by way of contribution from any source whether on loan or otherwise,

for the purpose of works of a capital nature.

(2) Moneys from time to time forming the Capital Works Fund shall be applied to expenditure necessarily incurred by the Board in connexion with the investigation, planning and design, the purchase, construction and protection of works of the Board, and with the acquisition of lands by the Board, that are or are to be utilized by it in the discharge of its functions under this Act.

(3) Any balance, or any part thereof, remaining in the Capital Works Fund at its closure shall be paid into and applied for the purpose of such other fund or shall be dealt with in such other manner as may be approved in writing by the Treasurer.

82. Trust Fund. (1) The Board shall pay or cause to be paid into the Trust Fund all moneys received or held by it by way of deposit or in trust for any person and all moneys held by it that are unclaimed moneys.

(2) Moneys from time to time forming the Trust Fund shall be applied—

- (a) in the case of moneys received by way of deposit, according to the terms on which the deposit is held;
- (b) in the case of moneys held in trust for any person to the payment to or for the benefit of that person;
- (c) in the case of unclaimed moneys, in disposing of those moneys according to law.

83. Investment of temporarily surplus moneys. (1) If at any time the Board is of opinion that part of the moneys standing to the credit of any fund is available for investment, the Board may, subject to this section and the regulations, invest such part—

- (a) on deposit at a bank;

- (b) in securities of or guaranteed by the Government of the Commonwealth or of the State;
- (c) with an authorized and approved dealer; or
- (d) in such other securities as are approved by the Governor in Council by Order in Council, on the recommendation of the Treasurer.

(2) Every security, safe custody acknowledgement or other document evidencing title issued in respect of any investment shall be held either by the Board or by the Treasurer on behalf of the Board.

(3) For the purpose of this section the expression "authorized and approved dealer" means a person who—

- (a) is an authorized dealer in the short term money market with established lines of credit with the Reserve Bank of Australia as a lender of last resort; and
- (b) is approved by the Governor in Council by Order in Council.

Division 4—Accounts and Audit

84. Meaning of terms. In this Division, save where a contrary intention appears—

"accounts" means records, howsoever compiled, recorded or stored, whether in written or printed form or on microfilm or by electronic process or otherwise, of transactions in respect of moneys or property expressed in money or other units of measurement and includes books, documents, writings, money forms, abstracts, vouchers and other records of any kind from which accounts have been compiled and, in addition, information and records of any kind to which the Auditor-General, in his opinion, should have recourse in the conduct of an audit;

"year" means the period commencing on 1 July in any calendar year and concluding on 30 June in the next succeeding calendar year.

85. Budget. (1) The Board shall frame and adopt a budget for the receipts and disbursements of the Board for each year, in the form and manner prescribed, in respect of each fund maintained by the Board. Such budget shall be adopted by the Board in the month of June in the year preceding the year to which the budget relates unless the Governor in Council by Order in Council directs some other month or time in or before which it shall be adopted.

(2) In framing and adopting a budget for any year, the Board shall take into account the amount of any surplus or deficit which it then estimates there will be at the commencement of such year.

(3) Every such budget shall be subject to the approval of the Minister and, until so approved, shall have no force or effect.

(4) The Board shall observe the approved budget and, except where the budget is in respect of the Reserve Fund, the Trust Fund, and any other fund of the Board declared by the Governor in Council by Order in Council to be a fund to which this requirement does not apply, shall, as nearly as may be, balance such budget.

(5) At the close of each year all authorizations of expenditure and votes of expenditure for that year shall lapse.

A vote so lapsing may be re-voted.

(6) If the Board makes a disbursement in any year from any of its funds that has not been provided for in the approved budget relating to that fund for that year, then, except where the disbursement has been made in emergent or extraordinary circumstances, the members of the Board who knowingly voted for such expenditure shall be jointly and severally liable to repay to the Board the amount of the disbursement and such amount may be recovered by action in a court of competent jurisdiction as a debt due and owing by all and each of such members to the Board.

(7) The prescribed form of budget shall include provision for forward estimates for two years subsequent to the year for which the budget is to be prepared.

The forward estimates made for the purpose of duly preparing a budget for any year shall be reasonable estimates of anticipated receipts and disbursements in the years to which they relate but shall not bind the Board for the purpose of authorization of expenditure in such years or for any other purpose in such years.

(8) Copies of every budget adopted by the Board and approved by the Minister shall be available for purchase by any person at the public office of the Board at a fee determined by resolution of the Board from time to time.

86. Accounts. The Board shall cause proper accounts to be established and faithfully and properly kept in accordance with this Act.

87. Statements of account. (1) The secretary shall, at the first ordinary meeting of the Board held after the close of the accounting period adopted by the Board or, in the absence of such adoption, after the close of each month, submit to the Board statements of the accounts in relation to the budgets for the period of the year to the termination of such accounting period or, as the case may be, month last concluded.

(2) The statements of account shall show both estimated receipts and disbursements and actual receipts and disbursements with such explanations as will give a true indication of the progressive state of the votes provided in the budget and, in addition, the statements submitted to the first meeting of the Board held after the last day of December and March shall include an estimate of the anticipated position at the end of the year.

88. Annual financial statements. (1) The secretary shall cause to be prepared and laid before the Board before 31 August in each year annual statements of account and other financial and relevant information as is prescribed by the regulations, in the manner and form prescribed.

(2) Every statement of account referred to in subsection (1) shall be signed by the Chairman and secretary and sealed with the seal of the Board.

(3) Until the annual financial statements have been audited pursuant to section 89 and laid before the Legislative Assembly pursuant to section 144 no such statement shall be sold or made available to any person other than the Auditor-General or a person acting in aid of him, the Minister or a person acting in aid of him, or a member or officer of the Board.

(4) When the annual financial statements have been audited and laid before the Legislative Assembly as specified in subsection (3) the Board shall cause to be published in a newspaper circulating within the operational area a notice to the effect that such statements are open to inspection at the public office of the Board and that a copy thereof may be purchased by payment to the Board of an amount specified, which may be fixed from time to time by resolution of the Board.

89. Audit of accounts. (1) The accounts of the Board shall be audited by the Auditor-General or by an authorized officer directed by him, each of whom shall have, with respect to such audit and accounts all the powers and authorities conferred on him by the *Financial Administration and Audit Act 1977-1978*.

The fee payable by the Board in respect of the audit shall be fixed by the Auditor-General.

(2) The Auditor-General shall certify whether the statements of account prepared on behalf of the Board—

- (a) are, where applicable, prepared in the form required by this Act;
- (b) are in agreement with the accounts; and
- (c) in his opinion fairly set out the financial transactions for the period to which they relate and show a true and fair view of the state of affairs at the close of that period.

(3) The Auditor-General shall, at least once in each year, report to the Minister through the Treasurer the results of each audit carried out pursuant to this section and shall, if he thinks fit, include with the report recommendations to the Minister or to the Chairman with respect to the financial statements and the manner of operating and maintaining the accounts in question.

A copy of such report and recommendations (if any) shall be furnished to the Chairman.

The Minister or, as the case may be, Chairman shall give due consideration to the report and the recommendations (if any) of the Auditor-General made pursuant to this subsection.

(4) The Auditor-General shall include in his annual report to Parliament such matters with respect to the financial transactions of the Authority as he thinks fit:

Provided that if in the opinion of the Auditor-General the circumstances so warrant, he may make an additional or special report to Parliament at any time.

(5) The report of the Auditor-General shall be submitted to the members of the Board at the first ordinary meeting held after the report becomes available to the Chairman.

*Division 5—Special Financial Arrangements***90. Grants and subsidies.** The Board shall be eligible—

- (a) to receive payment from the Treasurer or any other source of moneys by way of grant or subsidy for or in respect of the construction of new works or the extension of existing works of a capital nature or for or in respect of any other purpose for which a Local Authority whose Area is within the operational area of the Board would, as a water authority, have been eligible to receive such moneys; and
- (b) to receive such payment to the same extent and on the same terms and conditions as would apply in respect of grant or subsidy paid for in respect of such purposes to the Local Authorities whose Areas are within the operational area of the Board were each of such Local Authorities carrying out such work or purpose.

91. Establishment charges. (1) Until the Board has been duly constituted and has acquired staff and facilities sufficient to enable it to manage its own affairs the Co-ordinator-General is authorized to provide such facilities and services and to take such action as he considers necessary to further the objects and purposes of this Act.

(2) The authority conferred by subsection (1) includes authority to take all action to ensure the orderly construction of Wivenhoe Dam on the Brisbane River in accordance with the *Wivenhoe Dam and Hydro-electric Works Act 1979*.

92. Precepts for Board's operating costs. (1) Until the Board is in receipt of revenue sufficient to enable it to balance its Operating Fund budget each year the Board may from time to time by its resolution determine that a contribution be paid by each Local Authority whose Area or a part of whose Area is within the operational area to the Board in such amount as will enable the Board to balance such budget.

(2) The contribution to be made by each Local Authority under subsection (1) shall be calculated on such basis or bases as the Board resolves upon as just and reasonable and shall be determined by the Board at the meeting in each year at which its budget is adopted.

Every such determination shall be subject to the approval of the Minister and, until so approved, shall have no force or effect.

(3) For the purpose of obtaining from a Local Authority the amount of its contribution under subsection (1) in respect of a year the Board may issue a precept.

(4) A precept—

- (a) shall be sufficiently authenticated if it is signed by the Chairman;
- (b) shall state the amount of contribution to be paid by the Local Authority to which it is directed;
- (c) shall require the Local Authority to which it is directed to pay the amount of its contribution to the Board or to the person named therein by two equal half-yearly instalments payable on or before the date specified respectively therefor in the precept.

(5) Every Local Authority so required by a precept shall pay the amount of its contribution stated in the precept in accordance in every respect with the requirements of the precept.

(6) If a Local Authority required by a precept to pay an amount of contribution fails to pay the same or an instalment thereof as required by the precept the Board may recover the amount in respect of which such failure has occurred together with the expenses of recovery by action for a debt due and owing to the Board in a court of competent jurisdiction.

PART VII—TAKING AND HOLDING LAND BY THE BOARD

Division 1—Acquisition of Land

93. Freehold land. For the purpose of taking land granted in fee simple the Board is a constructing authority within the meaning of the *Acquisition of Land Act 1967–1969*.

94. Other land. (1) As well as land granted in fee simple the Board as a constructing authority under the *Acquisition of Land Act 1967–1969* may take, for the purpose of discharging its functions under this Act, land that is held from the Crown for an estate or interest less than fee simple.

(2) Land taken pursuant to subsection (1), if it is to vest in the Board, shall be vested in the Board for an estate in fee simple.

(3) The Governor in Council is hereby authorized to grant in fee simple and vest in the Board land taken pursuant to subsection (1) subject to such reservations and conditions as are authorized or required by the *Land Act 1962–1975*.

95. Application of Act of 1967 No. 48. The *Acquisition of Land Act 1967–1969* shall apply in respect of every taking of land pursuant to section 94 and, if the case required it, in respect of the subsequent disposal of land so taken and shall be read with and subject to all such modifications and adaptations as are necessary to give operation and effect to section 94 including, as respects the land in question, the reading of any reference therein to the Registrar of Titles as a reference to the person or authority charged with registering instruments evidencing title to an estate or interest in that land held from the Crown.

96. Taking additional land upon severance. (1) If the Board proposes to acquire (by agreement or by taking) any land and the acquisition of such land will sever it from other land of the owner that is used together with the land which it is proposed to acquire the Board may, with the approval of the Minister and the consent of the owner first had and obtained, acquire (by agreement or by taking) the whole or part of that other land.

(2) The acquisition of additional land pursuant to subsection (1) shall be deemed to be for a purpose incidental to the purpose for which the land first-mentioned in that subsection is proposed to be acquired.

(3) The Board may sell or otherwise deal with additional land acquired by it pursuant to subsection (1) in such manner as it thinks fit without restriction prescribed by any other Act.

97. Acquisition of easements etc. The provisions of this Part relating to acquisition of land shall apply in respect of the acquisition (by agreement or by taking) of an easement or other right in land whether or not, in the case of an easement, it is to be acquired for the benefit of other land as a dominant tenement.

Division 2—Rateability of Land

98. Assignment of full supply levels. A full supply level may be assigned to each reservoir by the Minister, on the recommendation of the Board, by notification published in the Gazette.

99. Variation of full supply levels. If it appears to the Minister, on the recommendation of the Board, that a full supply level assigned to a reservoir should be varied for any reason whatever he may vary that level by assigning a new full supply level to the reservoir in accordance with section 98.

100. Full supply level of reservoir acquired by Board. (1) Where the Board has acquired from a Local Authority a completed reservoir it shall be deemed that a full supply level has been assigned to the reservoir under section 98 taking effect as at the date of acquisition and being sited at that level which is accepted as the full supply level of the reservoir at the date of acquisition.

(2) A full supply level deemed to have been assigned to a reservoir may be varied in accordance with section 99.

101. Date on which full supply levels are effective. (1) In each notification whereby a full supply level is assigned to a reservoir there shall be specified a date on and from which the assignment is to take effect and the assignment shall take effect on and from that date accordingly until the level so assigned is duly varied by a subsequent notification.

(2) A date specified for the taking effect of an assignment may be the date of publication of the notification in the Gazette or a date before or after the date of such publication, as the Minister thinks fit.

102. Land generally rateable. (1) Subject to this section land vested in or under the control of the Board is rateable land for the purposes of the *Local Government Act* 1936–1978 and the *City of Brisbane Act* 1924–1977.

(2) Subsection (1) does not apply in respect of land vested in or under the control of the Board hereunder specified—

(a) land within a reservoir that is submerged land if, immediately before its becoming vested in or under the control of the Board, it was—

(i) Crown land reserved and set apart for any public purpose; or

(ii) Crown land, being the bed or bank of a watercourse or lake forming the boundary, wholly or in part, of a parcel of land, which was not leased or let to any person;

(b) land specified in the schedule to the *Wivenhoe Dam and Hydro-electric Works Act* 1979 for as long as it is held for any public purpose or purposes referred to in section 36 (2) of that Act.

(3) This section shall not be construed to affect the operation of any other Act that provides for the rateability of such land.

103. Rateable value. The rateable value of land declared by this Division to be rateable land shall be the unimproved value thereof determined by the Valuer General under the *Valuation of Land Act 1944-1977* as modified by section 104.

104. Determination of unimproved value. (1) The unimproved value of land declared by this Division to be rateable land shall be determined by the Valuer General subject to such of the following provisions of this section as may be material to a particular case:—

- (a) Due allowance shall be made for any limitation imposed by the Crown on the use to which the land may be put or imposed by the Board on the use to which the land may be put while in the occupation of a person other than the Board;
- (b) The unimproved value of the land shall not include the value of any timber or minerals on or in the land or of any water from or held on the land save to the extent that such water is permitted to be used for the watering of stock or for any other purpose on land in the occupation of a person other than the Board;
- (c) The unimproved value of land within a reservoir lying between the full supply level assigned to the reservoir and the maximum flood level assigned to the reservoir shall be determined after making due allowance for the susceptibility of such land to periodic inundation;
- (d) The unimproved value of submerged land shall be determined as if the land had not been inundated and as if the optimum use of the land were for purposes of primary production;
- (e) A separate valuation may be made by the Valuer-General in respect of submerged land.

(2) Notwithstanding the provisions of any other Act the unimproved value notified by the Valuer General in relation to submerged land shall not be the subject of any objection or appeal.

105. Meaning of "submerged land". For the purposes of sections 102 and 104 submerged land is land within a reservoir below the full supply level from time to time assigned to that reservoir.

PART VIII—PROCEDURE AND PRACTICE

Division 1—Flood Mitigation

106. Operational procedures for flood mitigation. (1) The Advisory Committee shall cause to be prepared a manual of operational procedures in relation to each reservoir that is under the control of the Board for the purpose of flood mitigation and may from time to time cause to be prepared such amendments thereto as the committee considers necessary.

Every manual and all amendments thereto prepared under this subsection shall be submitted to the Board which shall submit the same, with its recommendations, to the Minister within 40 days after it receives the same.

(2) A manual prepared under subsection (1) and amendments thereof, which may be recommended by the Advisory Committee shall not be effective until—

- (a) duly approved by the Minister; and

- (b) in the case of a manual prepared in relation to a reservoir within the Wivenhoe Dam project and the reservoir behind Somerset Dam, until the manual prepared in relation to such reservoirs pursuant to the *Wivenhoe Dam and Hydro-electric Works Act 1979* has ceased to be effective.

(3) Before he decides to approve of a manual or any amendment of a manual the Minister shall consult on that issue with the Minister of the Crown charged with the administration and control of water resources in Queensland.

107. Board bound by manual. The operational procedures to be adopted by the Board in respect of each reservoir under its control for the purpose of flood mitigation shall be as provided by the manual prepared under section 106 in relation to that reservoir as duly amended at the material time and such manual, as duly amended at the material time, shall be observed by the Board and its employees.

108. Minister, Board not liable for flood damage. The Minister, the Board and an employee of the Board shall not be liable for damages claimed in respect of loss or injury alleged to arise from—

- (a) the carrying out of flood mitigation procedures of the Board if such procedures were carried out under the general direction of a suitably qualified and experienced engineer in accordance with the operational procedures specified by the relevant manual prepared under section 106; or
- (b) the inaccuracy of information released on behalf of the Board or by an employee of the Board concerning anticipated flooding or the anticipated levels of flooding.

Division 2—Practice Concerning Water and Power Generation

109. Co-operative practice of Board and Electricity Generating Board. (1) Before the Board or The Queensland Electricity Generating Board assumes responsibility for the control, maintenance and operation of works, being part of the Wivenhoe Dam project or the hydro-electric project associated therewith and at all times thereafter when the Board has assumed such responsibility for works being part of the Wivenhoe Dam project and The Queensland Electricity Generating Board has assumed such responsibility for works being part of the hydro-electric project it is the duty of each Board to negotiate and consult with the other Board with a view to formulating a practice with respect to the operation of the works which are about to be or have been entrusted to it.

(2) For the purpose of formulating a practice referred to in subsection (1) regard shall be had to—

- (a) the need to ensure by way of the Wivenhoe Dam project an adequate supply of water for the City of Brisbane and other areas supplied or to be supplied from that project and the maximum measure of flood mitigation in the Brisbane River on the one hand and, on the other hand, the need to achieve by way of the hydro-electric project the efficient generation of electric power sufficient for the supply to be drawn from that project;

- (b) the desirability that each of them, the Board and the Generating Board, should assist the other of them as far as practicable, to achieve the purpose or purposes of the works entrusted to each of them under this Act; and
 - (c) the need of each of them, the Board and the Generating Board, to receive from the other of them sufficient notice of any proposed act of event or of any occurrence that is likely to affect the proper operation of the works entrusted to each of them under this Act.
- (3) When a practice referred to in subsection (1) has been formulated it shall be reduced to writing and furnished to the Director for the approval of the Minister who, after consultation with the Minister of the Crown charged with the administration and control of water resources in Queensland, may approve or reject the same or recommend amendment thereof.
- (4) When a practice has been duly approved by the Minister pursuant to subsection (3) it shall be adopted as the operational practice by resolution of the Board in respect of the works within the Wivenhoe Dam project and of The Queensland Electricity Generating Board in respect of works within the hydro-electric project and thereafter shall not be amended or departed from without the approval of the Minister first had and obtained.
- (5) If a dispute arises between the Board and the Generating Board as to any matter the subject of negotiation and consultation under this section either party may refer the matter in issue to the Minister who may cause to be made such investigations as he considers necessary and who shall make such recommendations with respect thereto as he thinks fit to the Governor in Council who shall determine the issue by Order in Council.
- (6) A determination of the Governor in Council pursuant to subsection (3) shall bind the Board and the Generating Board both of whom shall take all steps necessary to give effect to it.

PART IX—CONDUCT OF THE BOARD'S AFFAIRS

Division 1—Proceedings and Business of Board

110. Meetings of Board. (1) The first meeting of the Board shall be held at a time and place appointed by the Minister and thereafter meetings shall be held at the times and places appointed by resolution of the Board.

(2) Meetings of the Board other than the first such meeting shall be called by the Chairman or, in his absence, the Deputy-Chairman or, in the absence of both of them, any two members of the Board.

111. Presiding at meetings. (1) The Chairman shall preside at each meeting of the Board at which he is present and the Deputy-Chairman, if he is present, shall preside at any meeting of the Board at which the Chairman is not present or if at any time there is no Chairman.

(2) If both the Chairman and Deputy-Chairman are absent from any meeting of the Board the members who are present, if they constitute a quorum, may appoint one of their number to act as chairman of the meeting and such appointee may preside at the meeting and exercise the powers of the Chairman.

112. Quorum at meetings. A quorum of the Board shall consist of a majority of the number of members for the time being holding office.

113. Notice of meetings. (1) A notice of a meeting or an adjourned meeting of the Board (other than of a meeting adjourned to a later hour of the day on which such meeting was held or appointed to be held or to the first day or second day following that day) shall be in writing and shall be delivered or sent by post or otherwise to each member at his usual place of business or of residence last known to the secretary three days at least prior to the meeting.

(2) If in the opinion of the Chairman an emergency exists he may call a meeting of the Board and the same may be validly held notwithstanding that subsection (1) is not or cannot be complied with.

114. Adjournment of meetings. The members present at a meeting of the Board may adjourn the meeting from time to time.

If a quorum is not present at a meeting within thirty minutes after the time appointed for the meeting to commence the member or members present or the majority of them if more than two are present, or the Chairman if the members present are equally divided on the issue, may adjourn such meeting to any time not later than fourteen days from the date of such adjournment.

No provision of the preceding paragraph shall be construed to prevent the adjournment of a meeting to a later hour of the same day on which such meeting was appointed to be held.

115. Conduct of Board's affairs. (1) The Board shall exercise or perform a power, function or duty by majority vote of the members present and voting at a duly convened meeting of the Board.

A member who, being present at a meeting and entitled to vote, abstains from voting shall be deemed to have voted in the negative.

The person who is duly presiding at a meeting, if he is entitled to vote, shall have a deliberative vote and, in the event of any equality of votes, a casting vote.

(2) The Board shall cause to be recorded in a book provided for the purpose (in this Act called the minute book) and kept by the secretary under the superintendence of the Chairman—

- (a) particulars of all proceedings of the Board;
- (b) the names of the members present at each meeting of the Board;
- (c) the names of all members voting on any question before the Board on which a division is called.

The minutes of each meeting shall be signed after confirmation of the Board by the Chairman at the meeting next succeeding the meeting at which such proceedings have taken place.

(3) Every entry in a book kept by the secretary purporting to relate to the proceedings of the Board and to be signed by the Chairman and a certified copy of or an extract from such an entry sealed with the

seal of the Board and signed by the Chairman and secretary shall upon its production in any proceeding be received as evidence of the proceedings appearing by such entry to have been taken without proof of the due convening or holding of the meeting to which the entry relates, or of the membership of the Board of the persons attending the meeting, or of the signatures of the Chairman or secretary.

(4) The Board may, from time to time—

- (a) appoint, out of its number, committees, either for general or special purposes;
- (b) delegate to a committee power to do any act or hold any inquiry or refer to a committee any matter for the purpose of receiving its advice or recommendations thereon;
- (c) fix the quorum of a committee.

Every committee may, from time to time, appoint one of its members to be its chairman and shall report to the Board.

A committee may meet from time to time and may adjourn from place to place as it thinks proper, but no business shall be transacted at any meeting of the committee unless the quorum of members, if any, fixed by the Board or, if no quorum is fixed, two members at least, are present.

At all meetings of a committee, if its chairman is not present, one of its members present shall be appointed chairman of the committee during the absence of its chairman. All questions at any meeting shall be determined by a majority of the votes of the members present, including the chairman of the meeting who, if the numbers are equally divided, shall have a second or casting vote.

116. Validity of proceedings. An act, proceeding or agreement of the Board shall not be invalidated or in any way prejudiced by reason only of the fact that at the time such act was done, proceeding taken or agreement made there were vacancies in the membership of the Board not exceeding one-half of the total number of members for the time being required to constitute the Board or that all the members for the time being holding office were not present at the meeting at which such act or proceeding or the making of such agreement was done or authorized or that there was a defect in the membership or appointment of any one or more of the members who joined in doing such act or taking such proceeding or making such agreement or in authorizing such act, proceeding or agreement or of any combination of such facts.

117. Disability on participation in business of Board. (1) If a member of the Board has any pecuniary interest, direct or indirect, in an agreement or proposed agreement or other matter and is present at a meeting of the Board at which the agreement or proposed agreement or other matter is to be considered he shall at the meeting and before the agreement, proposed agreement or matter is considered, disclose the fact of his interest, and shall not participate in the consideration of or vote on any question with respect to the agreement, proposed agreement or other matter.

This subsection does not apply to an interest which a member may have in common with the public or as an alderman or a member of the Local Authority that nominated him for appointment to the Board.

(2) For the purposes of this section a person shall be taken to have an indirect pecuniary interest in an agreement or a proposed agreement or other matter if—

- (a) he or a nominee of his is a member of a body corporate with which the agreement is made or proposed to be made or which has a direct pecuniary interest in the other matter under consideration; or
- (b) he is a partner or an employee of a person with whom the agreement is made or proposed to be made or who has a direct pecuniary interest in the other matter under consideration.

In the case of spouses living together the interest of one spouse shall, if it is known to the other, be deemed for the purposes of this subsection to be also the interest of that other spouse.

For the purposes of this section a person shall not be taken to have a pecuniary interest in an agreement or a proposed agreement or other matter by reason only of his membership of or employment under a public body concerned with the agreement, proposed agreement or other matter.

(3) The secretary shall record in a book to be kept for the purpose particulars of every disclosure of interest made at a meeting of the Board and referred to in subsection (1) and the book shall be open at all reasonable times to inspection by any member.

(4) The Minister, subject to such conditions as he thinks fit to impose, may remove from one or more members of the Board a disability imposed by this section whenever the number of members so disabled at any time would in his opinion be such as to impede the conduct of business of the Board, or if, in any other case, it appears to the Minister desirable that the disability should be removed.

(5) The Board may by its resolution exclude any member from a meeting whilst any agreement, proposed agreement or other matter in which he has an interest such as is referred to in subsection (1) is under consideration.

(6) A member of the Board who has a pecuniary interest in an agreement, proposed agreement or other matter as prescribed by this section and who fails to comply with subsection (1) forfeits his office as a member unless he proves that he did not know of his pecuniary interest at the time that the agreement, proposed agreement or other matter was the subject for consideration at the meeting in question of the Board.

Division 2—Remuneration Fees and Expenses

118. Chairman's remuneration. The person who holds the office of Chairman shall be paid such remuneration as the Governor in Council on the recommendation of the Minister may determine.

119. Remuneration of other Board members. (1) Each member of the Board shall be paid a fee in such amount as is prescribed for attending meetings of the Board and meetings of committees appointed by the Board and performing at the direction of the Board inspections or other duties as a member of the Board.

120. Expenses. (1) Every member of the Board shall be paid expenses on account of his attending meetings of the Board and meetings of committees appointed by the Board and, subject to his obtaining the Board's approval before entering upon such performance, on account of the performance by him of any duty as a member of the Board.

(2) The expenses referred to in subsection (1) shall be in such amount or calculated at such rate or on such basis as is prescribed by the regulations.

121. Other fees etc. not payable. A member of the Board is not entitled to remuneration, fees or expenses as a member save such as are provided for by this Division.

Division 3—Employees of Board

122. Employment of staff. (1) The Board shall appoint a secretary and such number of employees as it considers sufficient to enable it to properly perform its functions under this Act.

(2) Subject to any applicable industrial award or agreement, an employee of the Board shall be paid a salary or wage at such rate and shall be employed on such terms and conditions as the Board determines.

123. Staff of works controlled by Board. (1) Where the Board assumes control of any headworks of a Local Authority it shall, save in a case where it covenants with the Local Authority that the Local Authority shall continue to operate the head works on its behalf and where that covenant continues to be performed, offer to all persons ordinarily employed by the Local Authority on a full-time basis in and about the management, operation and maintenance of such headworks to continue their employment therein upon such duties as are determined by or on behalf of the Board but otherwise on terms and conditions of employment at least equal to the terms and conditions enjoyed by those persons as employees of the Local Authority.

(2) All persons who accept the Board's offer made pursuant to subsection (1) within two months after the making of the offer shall be employed by the Board and thereafter shall be subject to the by-laws and general governance of the Board in relation to their employment.

124. Employees of Local Authority prejudiced by Board's control of works. (1) If by reason of the Board's assumption of control of any headworks of a Local Authority persons then employed by the Local Authority other than those taken into the Board's employment pursuant to section 123 cannot, in the opinion of the Local Authority, be gainfully employed by it the Board and the Local Authority shall agree with respect to the employment of such persons on terms and conditions of employment at least equal to the terms and conditions of employment enjoyed by them as employees of the Local Authority.

(2) Where pursuant to an agreement made under subsection (1) an offer of employment by the Board is made to any person who accepts the offer within two months after it is made to him such person shall be employed by the Board upon such duties as are determined by or on behalf of the Board and thereafter shall be subject to the by-laws and general governance of the Board in relation to his employment.

125. Employment details to be furnished to Board. During negotiations between the Board and a Local Authority with a view to the assumption of control by the Board of the Local Authority's headworks the Local Authority shall cause to be collated and furnished to the Board full and accurate information as to its employees ordinarily employed on a full-time basis in and about the management, operation and maintenance of the headworks and as to its employees likely to be prejudiced by reason of the assumption of control together with full and accurate details as to the terms and conditions of their employment by the Local Authority.

126. Retention of accrued leave rights by Board's employees. A person who immediately prior to his becoming an employee of the Board was an officer of the Public Service of Queensland or an employee of a Local Authority taken into the Board's employment pursuant to section 123 or 124 shall, upon and by virtue of his becoming an employee of the Board cease to be such an officer or employee of the Local Authority but nevertheless for as long as he continues in the Board's employment in a permanent capacity shall retain and may claim against the Board in respect of all entitlements as respects leave that have accrued or are accruing to him as an officer of the Public Service of Queensland or an employee of the Local Authority at the time when he becomes an employee of the Board and for this purpose his service as an employee of the Board and his service in the employment terminated by his becoming an employee of the Board shall be deemed to be continuous service as an employee of the Board.

127. Retention of superannuation rights by Board's employees. (1) A person who—

- (a) becomes an employee of the Board in a permanent capacity within twelve months after the commencement of this Act and immediately prior to his becoming such an employee is a contributor to the State Service Superannuation Fund; or
- (b) becomes an employee of the Board in a permanent capacity at any time and immediately prior to his becoming such an employee is a contributor to a superannuation scheme or provident fund as an employee of a Local Authority

shall, for as long as he remains such a contributor—

- (c) retain all entitlements which at the time when he becomes an employee of the Board have accrued or are accruing to him as a contributor to the State Service Superannuation Fund, superannuation scheme or provident fund, as the case may be; and
- (d) continue to contribute to the fund or scheme to which he was contributing at the time when he became an employee of the Board and shall be entitled to receive therefrom in respect of himself, his widow and any child of his as if—
 - (i) in the case of a person who continues to contribute to the State Service Superannuation Fund, he were an officer within the meaning of the *State Service Superannuation Act 1972-1978* or the *Public Service Superannuation Act 1958-1978*; or

- (ii) in the case of a person who continues to contribute to another superannuation scheme or provident fund, he had remained an employee of the Local Authority by which he was employed immediately prior to his becoming an employee of the Board, and if the case require it as if his service as an employee of the Local Authority and his service as an employee of the Board were continuous service as an employee of the Local Authority.

(2) To facilitate the payment of contributions to the State Service Superannuation Fund or any other superannuation scheme or provident fund by employees referred to in subsection (1) the Board is hereby authorized to deduct from the weekly, fortnightly or other periodic salary or wage of such an employee an amount sufficient to meet his contribution to that Fund, scheme or provident fund and remit such amount to the proper person authorized to receive contributions on behalf of that Fund, scheme or provident fund.

128. Board to contribute as employer. (1) In respect of an employee of the Board who contributes to the State Service Superannuation Fund the Board shall pay to the State Service Superannuation Additional Benefits Fund such sums as would have been payable by the Crown by way of contribution to such last-mentioned fund had the contributor been an employee of the Crown and had been paid salary or wages at the rate paid to him at the material time by the Board.

(2) In respect of an employee of the Board who pursuant to section 127 contributes to a superannuation scheme or provident fund other than that referred to in subsection (1) the Board shall pay to that scheme or fund such sums as would have been payable by the Local Authority concerned by way of contribution to the scheme or fund had the contributor been an employee of the Local Authority and had been paid salary or wages at the rate paid to him at the material time by the Board.

(3) Moneys payable by the Board under this section to the State Service Superannuation Additional Benefits Fund or to any other superannuation scheme or provident fund and unpaid may be recovered by action in a court of competent jurisdiction by the State Service Superannuation Board constituted under the *State Service Superannuation Act 1972-1978* or the trustees or managers of the scheme or fund in question respectively as a debt due to that board or, as the case may be, those trustees or managers.

129. Maintenance of Board's own superannuation scheme. (1) The Board may with the approval of the Governor in Council institute and maintain a scheme or schemes for the provision of superannuation benefits to its employees and to that end may provide in such manner as it thinks fit for the establishment and maintenance of such funds as it considers necessary or desirable and may contribute to such funds.

(2) If a scheme such as is referred to in subsection (1) is maintained by the Board an employee who is entitled to be a contributor to such scheme shall not be required to become such a contributor for as long as he continues to be a contributor pursuant to section 127 to the State Service Superannuation Fund or any other superannuation scheme or provident fund.

PART X—MISCELLANEOUS PROVISIONS

130. Board not liable for short supply. (1) The Board is not liable to any penalty or damages on account of a failure to supply water or a restricted supply of water if such failure or restriction is by reason of a lessening of supply by the Board pursuant to section 59.

(2) The Board shall not be obliged to supply or be compelled to supply water to any Local Authority or the Glamorgan Vale Water Board at an hourly, daily or other periodic rate greater than is determined from time to time by the Board as the maximum allocation or rate of supply that can prudently be made available to the Local Authority or that Board and advised to that authority or Board.

131. Board liable only in negligence for escape of water. The Board shall not be liable, absolutely or vicariously—

(a) for flooding or sending water upon any land by reason of works performed by or for it; or

(b) for escape of water from headworks or trunk mains under its control or from works being performed by or for it,

unless it be shown that the flooding, sending of water or escape is due to or arose out of the negligence of the Board or its servants in the construction, maintenance, control or management of the works, headworks or trunk mains in question or of the flow of water therein.

This section shall not be construed to prejudice the operation of section 108.

132. Obstruction of Board's agents. A person who obstructs or attempts to obstruct the Board or any agent of the Board in the performance of a function or the exercise of a power of the Board commits an offence against this Act.

133. Assault on Board's agents. A person who assaults or intimidates or attempts to assault or intimidate any agent of the Board while he is exercising a power or performing a duty under or for the purposes of this Act commits an offence against this Act.

134. Regulations. The Governor in Council may make regulations not inconsistent with this Act providing for—

(a) the form of the budget of the Board and the manner in which it shall be framed;

(b) the accounts to be established by the Board and the manner in which they shall be maintained;

(c) matters incidental to the proper administration of Part VI;

(d) the preparation, adoption and amendment from time to time of an accounting manual by the Board, and the form and content thereof;

(e) forms to be used for the purposes of this Act and the purposes for which such forms are to be used;

(f) all matters required or permitted by this Act to be prescribed where a method of prescription is not otherwise provided for;

(g) all matters whether general or to meet particular cases that may be convenient for the administration of this Act or that may be necessary or expedient to achieve the objects and purposes of this Act.

135. By-laws. (1) The Board, with the approval of the Governor in Council, may make by-laws not inconsistent with this Act providing for—

- (a) all matters and things necessary for the proper construction, maintenance, operation and control of its headworks, treatment works, trunk mains, works and undertakings;
- (b) supply of water from its headworks, trunk mains and treatment works;
- (c) taking and use of water in its control;
- (d) the use, good management and preservation of land owned by or in the control of the Board;
- (e) recreational use of reservoirs and land owned by or in the control of the Board and of the waters therein or thereon;
- (f) protection of its property from trespass and damage; access of the public to specified parts of the Board's property and undertakings;
- (g) preservation of water in its control from pollution in any form and of banks of reservoirs from erosion;
- (h) the manner in which functions, powers and duties shall be discharged, exercised and performed by it or by any person for the purposes of this Act;
- (i) conduct of business at its meetings; custody and use of the common seal of the Board;
- (j) fees payable to it and the matters in respect of which such fees are payable;
- (k) matters that under this Act may be prescribed by by-law of the Board;
- (l) all matters that in its opinion are necessary or desirable for the proper and efficient performance of its functions.

(2) A by-law may provide for the recoupment to the Board of expenses incurred by it in doing work—

- (a) required by the by-laws to be done where the person so required has failed to do the work; or
- (b) required to be done to remedy any damage occasioned by a breach of the by-laws,

by the person who has failed to do the work, or, as the case may be, has breached the by-laws.

136. Manner of making by-laws. (1) Every resolution making a by-law shall be passed at a special meeting of the Board called for the purpose.

(2) After the passing of a resolution making a by-law a copy of the by-law shall be kept available for public inspection at the Board's office until the expiration of the time specified in accordance with subsection (3).

(3) As soon as practicable after the passing of a resolution making a by-law the Board shall cause to be published at least once in a newspaper that circulates generally within the operational area of the Board a notice—

- (a) of the general purport of the by-law;

- (b) that a copy of the by-law is available for inspection by any person at the Board's office up to and including a date specified in the notice being a date not less than 21 days after the publication or, if the notice is published more than once, after the first publication of the notice in the newspaper;
- (c) that a copy of the by-law may be procured from the Board on or before the date so specified upon payment of a sum fixed by resolution of the Board but not exceeding the cost of printing or otherwise reproducing the copy, which sum shall be specified in the notice;
- (d) that objections to the making of the by-law may be lodged with the Board at its office on or before the date so specified and that any such objection shall be in writing and shall state the grounds of objection and the facts and circumstances relied on by the objector in support of those grounds.

(4) A person—

- (a) who wishes to object to the making of a by-law may do so by lodging his objection at the Board's office in accordance with the notice published under subsection (3) and not otherwise;
- (b) is entitled to procure from the Board a copy of a by-law kept available for public inspection at the Board's office upon tender of the sum specified for that purpose in the notice published under subsection (3).

(5) The Board shall consider every objection duly made to the making of a by-law and if thereupon it resolves to proceed with the making of the by-law it shall cause to be forwarded to the Minister for submission to the Governor in Council—

- (a) a copy of the Board's resolution to make the by-law;
- (b) a copy of the by-law proposed to be made;
- (c) a copy of the notice published under subsection (3);
- (d) all objections duly made to the making of the by-law;
- (e) the representations of the Board in respect of all such objections; and
- (f) a certificate under the hand of the Chairman and secretary that the requirements of this section have been complied with in connexion with the making of the by-law in question.

(6) The Governor in Council may approve or reject a by-law of the Board submitted to him or may approve of the by-law subject to such amendments as he thinks fit having regard to the objects of the by-law and to the objections to the by-law and representations of the Board in respect of the objections.

Where the requirements of this section have been complied with in connexion with the making of a by-law that is approved by the Governor in Council subject to amendments it shall be deemed that the by-law as so amended is the by-law duly made by the Board.

137. Application of regulation or by-law; breaches thereof. The regulations or by-laws—

- (a) may be made to, apply generally throughout the operational area of the Board or within such part or parts of that area as may be specified therein;

- (b) may be made to apply generally in respect of the whole undertaking of the Board or in respect of such works of the Board as may be specified therein;
- (c) may, for a breach of the same, prescribe a penalty which, when expressed as a lump sum, shall not exceed \$1 000 and, when expressed as a daily penalty, shall not exceed \$100 per day.

138. Publication and operation of by-laws. Section 28A of the *Acts Interpretation Act 1954-1971* (Publication of Regulations) applies in respect of by-laws made by the Board as if they were regulations.

139. Intervention in Board's affairs. (1) The Governor in Council may, by Order in Council—

- (a) repeal a by-law or any part of a by-law of the Board;
- (b) suspend or rescind any resolution or order of the Board;
- (c) prohibit the expenditure of money from any fund of the Board upon work that he considers unnecessary or which, in his opinion, will impose undue burden upon the inhabitants of the operational area of the Board.

(2) A resolution of the Board rescinded by the Governor in Council shall be taken to be void *ab initio* unless the Governor in Council specifies a later date for that purpose, in which case the resolution shall be taken to be void on and from that specified date.

Upon the coming into effect of a rescission of a resolution of the Board—

- (a) the making by or on behalf of the Board of a contract;
 - (b) the acceptance by or on behalf of the Board of a tender; or
 - (c) the doing by or on behalf of the Board of any act or thing,
- pursuant to or allegedly pursuant to authority conferred by such resolution shall be void—

on and from the date specified by the Governor in Council as the date on and from which such resolution shall be void; or

ab initio, where no such date is specified by the Governor in Council.

(3) Where any contract, acceptance, act or thing becomes void *ab initio* pursuant to subsection (2), no action, claim or demand shall lie or be made or allowed against the Board or any member, servant or agent of the Board for or in respect of any damage, loss or injury sustained or alleged to have been sustained or for or in respect of any other right or remedy conferred or alleged to have been conferred by reason of the making of the contract or the acceptance or the doing of the act or thing.

(4) Where a contract becomes void *ab initio* pursuant to subsection (2), if a party to the contract (other than the Board) satisfies the Governor in Council that—

- (a) he entered into the contract in good faith; and
- (b) prior to the rescission by the Governor in Council of the resolution that authorized the making by the Board of the contract, he had incurred expense in or for the purpose of performing the contract,

the Governor in Council may, in writing, direct the Board to pay to that party the amount of such expense and the Board shall comply in all respects with such direction.

An amount so directed to be paid and unpaid shall constitute a debt due and owing by the Board to the party concerned.

140. Service of documents. (1) A document to be served on or given to the Board shall be sufficiently served on or given to the Board if it is delivered to or left at its public office.

A document left at the public office for service on the Board may be served or given by delivering the same or a true copy thereof to some person at the office or, if there is no person at the office to whom such delivery can be made, by affixing the same or a true copy thereof to some conspicuous part of the premises.

(2) A document to be served on or given to any person by the Board or by an agent of the Board acting in the course of his duty shall be sufficiently served or given if—

- (a) it is delivered to that person;
- (b) it is left at that person's address for service;
- (c) it is sent by post addressed to that person at his address for service;
- (d) in the case of a summons, it is served in any manner provided by law for the service of a summons.

A document left at a person's address for service, if it is addressed to that person, may be served or given by delivering the same or a true copy thereof to some person at the premises at that address or, if there is no person at that address to whom such delivery can be made, by affixing the same or a true copy thereof to some conspicuous part of the premises.

In this subsection the expression "address for service" means, in respect of any person, his usual place of residence or business or his place of residence or business last known to the secretary or his address for service last notified by him to the Board or the secretary or his registered office for the purpose of any Act that requires him to have a registered office.

141. Proof of Board's documents. (1) A document purporting to be issued or made by or under the direction of the Board and signed by the Chairman or the secretary shall be admitted in evidence in all courts and proceedings and shall be deemed to be issued or made by or under the direction of the Board until the contrary is proved.

(2) Evidence of a by-law made by the Board may be given—

- (a) by production of the Gazette purporting to contain it; or
- (b) by production of a document purporting to be a copy of it and to be printed by the Government Printer or by the authority of the Government of the State.

142. Search of titles without fee. The Registrar of Titles and every mining registrar shall permit the secretary or other authorized agent of the Board to make, free of charge, searches of, copies of and extracts from any book, plan or document in his charge that relates to the registration of land in the operational area of the Board.

143. Returns to the Minister. (1) The Minister may from time to time request the Board to furnish him with its report on such matters as he nominates and may fix a reasonable time within which the return is to be furnished.

(2) Where a return is furnished pursuant to the Minister's request made under subsection (1) a person appointed for the purpose by the Minister shall at any time have access to all records of the Board and may examine the same with a view to verifying the accuracy of the return.

(3) If the Board refuses or fails to furnish a return in compliance in all respects with the Minister's request or furnishes a return that is false in a material particular the Board and each person who is privy to such refusal, failure or the making of the false return is liable to a penalty not exceeding \$100.

(4) A person who obstructs or hinders any person referred to in subsection (2) in the exercise of his powers under that subsection commits an offence against this Act and is liable to a penalty not exceeding \$100.

144. Annual report. (1) Once in each year the Board shall furnish to the Minister a report on its operations during the year last preceding.

The report shall include such statements of account and other financial and relevant information as may be prescribed, together with the certificate of the Auditor-General prescribed by section 89 (2).

(2) The Minister shall lay the report of the Board before the Legislative Assembly—

- (a) within 14 sitting days of his receipt of the report, if the Assembly is then sitting; or
- (b) if the Assembly is not then sitting, within 14 sitting days after the commencement of its sittings next following his receipt of the report.

145. Offence provision. (1) A person who contravenes or fails to comply with any provision of this Act commits an offence against this Act.

(2) A person who—

- (a) commits an offence against this Act; or
- (b) contravenes or fails to comply with any provision of the Board's by-laws

may be prosecuted in respect thereof in a summary way under the *Justices Act* 1886–1978 and, save where another penalty is specifically provided by this Act or by the by-laws, as the case may be, is liable to a penalty of \$1 000.

146. Appropriation of penalties. Unless otherwise expressly provided by this Act, all penalties under this Act recovered by the Board or by a person authorized by the Board for that purpose shall be paid to the Board.

SCHEDULE

[s. 6]

Cities of—

Brisbane
Ipswich
Redcliffe

Shires of—

Esk
Gatton
Kilcoy
Laidley
Logan
Moreton
Pine Rivers

Part of Shires of—

Albert
Beautesert