

Act No. 14, 1897.

An Act to amend the Hunter District Water Supply and Sewerage Act of 1892, the Country Towns and Hunter District Water Supply and Sewerage Acts Amendment Act of 1894, and the Hunter District Water Supply (Partial Duplication) Act, 1895; and for other purposes. [13th November, 1897.]

HUNTER DISTRICT  
WATER AND  
SEWERAGE ACT  
AMENDMENT.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

*Preliminary, Repeal, and Interpretation.*

1. This Act may be cited as the “Hunter District Water and Sewerage Act Amendment Act, 1897.” Short title.

Its enactments are arranged under the following Parts:—

PART I.—*Preliminary, Repeal, and Interpretation*—ss. 1–4.

PART II.—*Validating*—s. 5.

PART III.—1. *Ratable property*—ss. 6–8.

2. *Assessment for rating purposes*—s. 9.

3. *Appeal from assessments*—ss. 10, 11.

4. *Making of rates*—ss. 12–19.

5. *Recovery of rates*—ss. 20–34.

6. *Power to deal with ratable property for arrears of rates*—s. 35.

PART IV.—*Statements of expenditure and accounts*—ss. 36–44.

PART V.—*Construction of works*—ss. 45–46.

PART VI.—*Miscellaneous provisions*—ss. 47–51.

2. In this Act, except where the subject matter or context or other provisions thereof require a different construction, the following terms in inverted commas shall have the respective meanings herein-after assigned to them (that is to say):—

“Current year” when applied to any matter of assessment, rate, or account means the year commencing the first day of July and ending the thirtieth day of June next following.

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“Hunter District Water and Sewerage Acts, 1892-1897,” means the Hunter District Water Supply and Sewerage Act of 1892, and so much of the Country Towns and Hunter District Water Supply and Sewerage Acts Amendment Act of 1894 as amends the first-mentioned Act, the Hunter District Water Supply (Partial Duplication) Act, 1895, and this Act.

“Land” includes messuages, lands, tenements, and hereditaments of any tenure.

“Owner” means the person for the time being entitled to receive the rents and profits of the property in reference to which the word is used, whether on his own account or as agent, trustee, or attorney, or who would be so entitled if such property were let.

“Premises” means and includes any house, any public or private building whatsoever, or any part thereof, and any garden, stable, or other offices used in connection therewith, or any part thereof, any shop, store, warehouse, church, chapel, concert-room, hospital, theatre, manufactory, workshop, engine-house, cowshed, privy, or other erection whatsoever, any railway or tramway lines, any wharf, pier, or jetty, and the land used in connection therewith or appurtenant thereto.

“President” “vice-president” and “secretary” mean respectively the president, vice-president, and secretary of the Board.

“Principal Act” means the Hunter District Water Supply and Sewerage Act of 1892.

“Property” means land, whether vacant or otherwise, and premises.

“Vacant land” means unoccupied land which is not built upon or cultivated, and which is not appurtenant to or used or in connection with any premises, whether such land be used for the purpose of depasturing cattle thereon or not.

Repeal.

3. On the commencement of this Act the following enactments, that is to say—section thirty, subsections (VI) and (VII) of section thirty-five, section thirty-six, subsection (II) of section fifty-three, sections sixty-nine, ninety, ninety-three, ninety-four, ninety-five, one hundred and twenty-nine, one hundred and thirty, and one hundred and sixty-five of the Principal Act, and section four and so much of section six of the Country Towns and Hunter District Water Supply and Sewerage Act Amendment Act of 1894, as amends the Principal Act shall be repealed.

Saving clause.

4. Nothing herein contained, except as hereinafter expressly provided, shall affect the validity of any proclamation, assessment, bond, act, deed, matter, or thing lawfully made, executed, or done under or by virtue of the said repealed enactments, or of any by-laws or

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or regulations lawfully made in pursuance of such enactments, or prevent any penalty being imposed, enforced, or recovered, or any punishment being inflicted for any offence heretofore committed against any of the said enactments, by-laws, or regulations.

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**PART II.***Validating.*

5. Notwithstanding anything contained in the Principal Act, the by-laws of the Board published in the Gazette on the fourteenth day of September, one thousand eight hundred and ninety-two, shall be deemed to have had and to have the same force and effect for the recovery of all rates, charges, and sums of money thereby imposed and made payable as if the same had been made before and published in the Gazette on the first day of July of the said year.

Validation of by-laws  
of 14 September,  
1892.

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**PART III.***Ratable property.*

6. Subject to the provisions of section sixty-four of the Principal Act, the rates for water, and all sums due to the Board in respect of water supply may be enforced and recovered in respect of all property situated as hereinafter described :—

Rates and charges  
for water.

- (a) Where property has frontage to, or abuts on, a street or public highway, along which, throughout the whole length of such frontage, a water-pipe of the Board is laid, so much of the property as is situate within a distance of four hundred and forty yards from the water-pipe shall be subject to the rate, although the property may not be actually supplied with water from any main or conduit :
- (b) Where property has frontage to or abuts on a street or public highway along which throughout part of the length of such frontage a water-pipe of the Board is laid, so much of the property as is situate within a distance of four hundred and forty yards from the water-pipe measured in a direction at right angles to such pipe shall be subject to the rate, although the property may not be actually supplied with water from any main or conduit :
- (c) Where property has no frontage to a street or public highway along which a water-pipe of the Board is laid, but a main or service-pipe is laid to some part of the property, so much of the property as is situate within four hundred and forty yards

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yards from the water-pipe laid in the street or public highway, measured in a direction at right angles to such pipe, shall be subject to the rate, although the property may not be actually supplied with water from any main or conduit :

Provided that any property otherwise ratable under subsections (a) and (b) hereof shall be exempt from the rate if such property cannot be supplied with water from a stand-pipe at least three feet in height from the natural surface of the ground at the building line, or, where ratable under subsection (c) hereof, from a similar stand-pipe at some point on such property.

Power of Board to lay pipes and drains through intervening property

7. In any case where property has not a frontage to, or does not abut on, a street or highway as aforesaid, and the owner or occupier of such property is not able to obtain the consent of the owner and occupier of the property intervening between such land and the water-pipe to the laying of a pipe or drain through such land to his property or to necessary repairs or alterations thereto or the removal thereof, the Board may upon the application of such firstnamed owner or occupier enter upon such intervening property and carry out the work on his behalf and at his cost, and for the purpose thereof the provisions of section forty-three of the Principal Act shall be applicable ; but any amount which may be paid by or recovered from the Board for compensation as therein provided shall not be recoverable from the applicant.

Property of Railway Commissioners ratable.

8. Notwithstanding anything contained in any Act, all property vested in the Railway Commissioners of New South Wales shall, subject to the provisions of the Hunter District Water Supply and Sewerage Acts, 1892-97, be ratable property within the meaning of those Acts.

*Assessment for rating purposes.*

The Board to make an assessment once at least in every three years.

9. (1) The Board shall as soon after the commencement of this Act as is practicable, and thenceforth from time to time, but at least once in every three years, cause an assessment to be made by two competent valuers, of whom the Assessor to the Board for the time being shall be one, in the form or to the effect of Schedule A hereto of the net annual value of all property, whether occupied or not, ratable under the provisions of the Hunter District Water and Sewerage Acts, 1892-97.

Such assessment shall be deemed to have been in force from the commencement of the then current year, and shall, unless lawfully altered as hereinafter provided, remain in force until a fresh assessment is made ; but if such assessment is lawfully altered, then such assessment as altered shall be deemed to have been in force from the commencement of the year current when the alteration was made, or from the date of liability in the case of property becoming liable for rates after the commencement of the current year.

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The net annual value of the property assessed shall be determined as follows:—

- (a) In respect of vacant land at five per centum per annum on the capital value thereof.
- (b) In respect of all other land, not included in the definition of premises, at the full, fair, and average estimated annual rent clear of all outgoings at which the land would let on a lease of not less than twenty-one years, or (at the option of the Board) by the foot frontage on a building or improving lease for the same term.
- (c) In respect of premises at the annual rent at which the premises might reasonably be expected to let on a lease under which the tenant pays all usual or customary tenants' rates and taxes, the tenancy being from year to year or such other longer tenancy as the owner of the premises would be likely to offer for the purpose of obtaining the best return from the premises, deducting the probable annual average cost of insurance, and other expenses (if any) necessary to maintain the premises in a state to command such rent.
- (d) In respect of premises such as railway or tramway lines, piers, wharfs, jetties, stations, yards, buildings, and the land used in connection with same, at five per centum per annum on the capital value thereof:

Provided that the deductions in subsections (b) and (c) for outgoings shall not exceed ten per centum of the rent:

Provided also that if in the opinion of the Board the valuation Proviso. then in force of any municipal council fairly represents the net annual value of any property, then the Board may adopt such valuation without causing an assessment to be made under this subsection.

(II) The assessment need not be made jointly by the valuers, Assessment of one valuer. but a several assessment by either valuer will be a compliance with the requirements of this section.

(III) Before any assessment is made the person appointed Declaration by valuers. to make it shall make and subscribe a solemn declaration that he will make such assessment impartially and truly according to the best of his judgment; and an entry shall be made in the minute-book of the Board of the making and subscribing of such declaration and of the date thereof.

(IV) Every valuer shall make his assessment in the form of Form of assessment. Schedule A to this Act.

(V) Every valuer shall, for the purpose of making his Power of entry. assessment, have a right of entry at all reasonable hours in the daytime into and upon any ratable property, and may put questions to any owner or any person in occupation or charge of such property as to any matters necessary to enable him to make such assessment; and if such

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Assessment book.	such owner or person, after being informed by the valuer of his purpose in putting such questions, refuses or wilfully omits to answer such questions when required by the valuer, or wilfully makes any false answer to any such questions, such owner or person shall for every such offence be liable to a penalty not exceeding ten pounds.
Notice of assessment "rate-notice."	(vi) As soon as practicable after the assessment of all ratable property the assessment shall be fairly transcribed in a book to be kept for that purpose, called the "Assessment Book," in the form or to the effect of Schedule A hereto.
Where owner unknown.	(vii) The Board shall, as soon as practicable, after the making of the assessment book, cause a notice of the amount of the assessment and rate (in this Act called the "rate-notice") to be served on the occupier of the property assessed, or, if there be no occupier, upon the owner.
Assessment of property not assessed.	(viii) Whenever the name of the owner of ratable property is not known to the Board it shall be sufficient to rate such owner in the assessment book and to describe him on the notices by the designation of "the owner." And it shall be sufficient in the assessment book or in any rate-notice to describe any property by stating in general terms the situation of the property and such other matters as will serve to identify it.
Corrections in assessment book.	(ix) Whenever any property which in the opinion of the Board ought to be assessed is not assessed, the Board may cause the same to be assessed as herein provided: But the provisions of this Act in respect of appeals from the annual assessment shall apply to any assessment made under this subsection.
	(x) If it at any time appears to the Board that the name of any person has been entered in the assessment book as the owner or occupier of any property in respect of which some other person ought to have been assessed, or that any property which is not subject to rates, has been entered in the assessment book, or that any matter purely of error needs rectification in the assessment book, the Board may cause the assessment book to be rectified as it may think proper.

*Appeal from assessments.*

Provisions in respect of appeals from assessments.	10. The enactments contained in the ten following subsections shall be applicable in respect of any assessment made by the Board:—
	(i) Any occupier or owner of ratable property may appeal from such assessment by serving at the office of the Board, before the expiration of a period of twenty-eight days from the service of the rate-notice, a notice of appeal in writing stating fully the grounds of appeal.
	(ii) If within twenty-eight days from the serving of the notice of appeal the Board and the appellant mutually agree in writing under

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under the hands of the president or vice-president and the appellant upon a settlement of such appeal, the necessary alterations (if any) shall be made in the assessment book of the Board and be initialled by the president.

- (III) The appeal unless settled by mutual agreement as aforesaid shall be heard before a court of petty sessions held within the petty sessions district in or nearest to which the property is situated, on the day fixed by the Board as hereinafter mentioned.

Notice of the day and place of the hearing of the appeal shall be published by advertisement in the Gazette and in one or more newspapers published or circulating in such petty sessions district or in some place near thereto, at least seven clear days before the hearing of the appeal.

At the sitting of the Court, or at any adjournment thereof, the justices present shall have power to hear and determine all objections made by the appellant or his agent duly authorised in writing in that behalf to the assessment on the ground of any excess or incorrectness in or non-compliance with the provisions of this Act in respect of the assessment but on no other ground :

Provided that where the valuation then in force of any municipal council has been adopted by the Board, no appeal shall be heard unless the appellant first proves to the satisfaction of the Court that the right of appeal from such municipal valuation allowed by law could not have been exercised.

- (IV) The Court shall have power to make such order as the justice of the case may require, and to confirm or alter the assessment, but the same shall not be reduced in amount by reason of the property assessed having decreased in value subsequently to the making of the assessment appealed from.

The decision of the Court shall be final upon all matters of fact, and the Court shall thereupon cause any alteration rendered necessary by such decision to be made in the assessment book of the Board, which shall be produced to the Court altered in accordance with the said decision; and every confirmation or alteration of an assessment shall be attested by the signature of the presiding justice, who shall also note thereon the date of such attestation.

- (V) No appeal shall be heard unless notice of appeal has been given as aforesaid, or where the Board and the appellant have within the prescribed time mutually agreed in writing upon a settlement of the appeal as hereinbefore provided.

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On the hearing of an appeal the Court may in its discretion award or refuse to award any costs to either the Board or the appellant, or may order either the Board or the appellant to pay to the other party to the appeal all or so much of the costs properly and necessarily incurred in reference thereto as may to the Court seem just. And the Court shall upon determining the appeal, fix in a summary way the amount (if any) of the costs so ordered to be paid; and where costs are ordered to be paid by the appellant the Board may recover the same as though such costs were a rate due in respect of the property assessed.

- (vi) If on the hearing of any appeal the Court is of opinion that the same is frivolous or vexatious it may order the appellant to pay to the Board such costs not exceeding five pounds as it may think fit, which may be recovered in the same manner as rates due in respect of the property assessed.
- (vii) If, at the hearing of any appeal, any question arises as to the principle or basis upon which any assessment ought, in point of law, to have been made, or as to the admission or rejection of evidence, the Court shall state and record its decision upon such question, and if either party be dissatisfied with such decision such party may appeal therefrom to the Supreme Court.
- (viii) Such appeal shall be in the form of a special case to be agreed upon by the parties, and if they cannot agree the Court shall settle the special case. The special case when so agreed on or settled shall be transmitted by the appellant to the Supreme Court, and be set down for argument in the same manner as other special cases.
- (ix) The Supreme Court shall hear and adjudicate upon any such special case, and may make such order as to costs as it may think just, and where costs are awarded to the Board the amount may, in addition to any other mode of recovery, be recovered as though such costs were a rate due in respect of the property assessed.

For the purpose of such hearing and adjudication the Supreme Court may be constituted by a sitting of any two judges of such Court.

- (x) After the expiration of the period of twenty-eight days from the service of the rate-notice, without any notice of appeal being given, or upon the decision of any such appeal, and the necessary alterations (if any) being made and attested, or upon the necessary alterations being made in any case where the Board and the appellant have mutually agreed in writing upon a settlement of an appeal, the assessment book shall

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shall be confirmed by the Board and signed by the president or vice-president, and shall thereupon be the assessment book of the Board.

11. The right of the Board to recover rates in respect of assessments appealed from shall not be suspended by an appeal, but if the appellant succeeds on the appeal, the amount, if any, of rates received by the Board in excess of the amount which, according to the final decision on such appeal, the Board was entitled to recover, shall forthwith be repaid by the Board on demand with interest at the rate of five per centum per annum, and if not so repaid within seven days after demand made the appellant may sue for and recover the same in any Court of competent jurisdiction, with full costs as between attorney and client, and such interest as the Court may award.

Right to recover rates not suspended by appeal.

*Making of rates.*

12. A copy of or extracts from the assessment book as to the amount of any valuation, assessment, or rate may be entered in a special book to be kept for the purpose, and such entries shall when completed be signed by the president or vice-president, and such entries purporting to be signed as aforesaid shall, upon production thereof by any officer of the Board authorised in that behalf, without any other evidence that the requirements of the Hunter District Water and Sewerage Acts, 1892-1897, have been complied with, be received as prima facie evidence in all Courts of the facts therein contained.

Extracts as to valuations, rates, and assessments to be entered in special book.

13. The Board shall so soon after the first day of July in each year as is practicable cause separate statements to be prepared in respect of water supply and sewerage, showing in abstract the estimated sums of money which will be required for the services of the current year to comply with the provisions of the Hunter District Water and Sewerage Acts, 1892-97, and shall consider the same in conjunction with a statement showing the revenue estimated to be derived from rates struck on the assessments made in accordance with the said Acts, and from all charges and other sources of revenue.

Board to prepare estimates of money required and of probable revenue.

A summary of such statements shall be entered in the minute book of the Board, and shall thereupon be signed by the president or vice-president, and a certified copy thereof under the hand of the president or vice-president shall be transmitted with the by-law levying such rates to the Minister.

14. Subject to the provisions of the Hunter District Water and Sewerage Acts, 1892-97, the Board shall levy and collect such rates, charges, and sums of money as shall be sufficient to cover the annual sums—

Board to levy rates to cover probable expenditure.

(a) fixed as interest payable on all permanent and renewable works constructed by or vested in the Board;

(b)

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- (b) required for the maintenance of all renewable works constructed by or vested in the Board ;
- (c) required for carrying out the provisions of the Hunter District Water and Sewerage Acts, 1892-97, including the payment of the salaries and remuneration of the president, vice-president, and other members of the Board ;
- (d) the debit balance (if any) on the general account for the preceding year :

Provided that where the general account for the preceding year shows a credit balance, such surplus shall be deducted from the annual sums so to be provided for.

Board may levy rates and charges for water supply.

15. Subject to the provisions of the Hunter District Water and Sewerage Acts, 1892-97, the Board may from time to time make, alter, and repeal by-laws in respect of water supply :—

- (a) For determining, making, and levying the rate to be paid in respect of property ratable for water supply, whether such property is connected with any main or is otherwise supplied with water by the Board or not :

No such rate shall exceed the amount of five pounds per centum on the assessment of the property ratable: Provided that a minimum rate of ten shillings per annum shall be lawful, although the same may exceed five pounds per centum on the assessment, and whether the water of the Board is supplied to the said property or not.

- (b) For determining, making, and levying the charges to be paid in addition to the rate in respect of property where water is used for other than domestic purposes and the supply is not through a meter.

And such rates or charges may be uniform or on a differential basis or sliding scale as the Board may determine.

Minimum rates and charges for water.

16. The water rate, whether the property is connected with the mains or not, or is supplied by meter or otherwise, for domestic purposes or for purposes other than domestic, shall be the rate determined as aforesaid.

If the water be supplied by meter, and the meter account exceeds the rate, then such excess shall be charged in addition to the rate: Provided that should the occupier of property supplied by meter vacate the property before the close of the half year, the meter account shall be credited with a portion only of the rate proportionate to the period of his occupancy.

Person rated entitled to water for domestic purposes.

17. The water rate shall, except where otherwise directed by the Board, entitle the owner or occupier of the property rated to a full, fair, and sufficient supply of water without meter for necessary domestic purposes, but shall not include a supply of water for cattle, stables,

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stables, or for washing vehicles, yards, shops, or house fronts, or for any trade or manufacturing purposes, or for irrigation, water power, fountains, gardens, or any ornamental purposes.

18. By-laws imposing rates or charges when made in accordance with the provisions of the Hunter District Water and Sewerage Acts, 1892-97, shall, unless expressed therein to the contrary, be deemed to have been in force from the commencement of the then current year, and shall, unless lawfully altered within that year, continue to be in force until the end thereof.

By-laws to be in force for the current year.

19. No by-law made or proceedings taken thereunder otherwise lawful shall be deemed to be invalid, by reason only that the estimates made by the Board of expenditure or revenue for the current year were inaccurate in any respect, or were found to be more or less than the actual requirements or receipts for the year when the same have been correctly ascertained at the close of such year.

Estimates of Board not to affect validity of by-laws.

*Recovery of rates.*

20. All rates and charges and sums due to the Board shall be paid by and be recoverable from the owner or occupier of the property, or, in the case of water supply, the person requiring, receiving, or using the water; and all rates shall be paid in advance by equal half-yearly payments on the first day of July and January in each year.

Rates and charges recoverable from owner or occupier; rates payable half-yearly.

21. If any person liable to pay any rate, charge, or sum due to the Board refuses or neglects to pay the same after a notice demanding payment has been served in the prescribed manner on the property subject to such rate, charge, or sum, the Board may recover the same with costs in any court of competent jurisdiction.

Recovery of rates and charges.

On service of another notice between which and the first notice not less than fourteen days shall have elapsed, demanding payment on the person then in occupation of such property, and liable to pay the rate, charge, or sum, and, on failure within seven days thereafter to comply therewith, the president or vice-president may issue a warrant under his hand to the bailiff, constable, or other person named therein to levy such rate, charge, or sum, with costs not exceeding the scale prescribed in Schedule B hereto, by distress and sale of the goods and chattels then being on the property, subject to the rate, charge, or sum, and in the occupation of the person aforesaid: Provided that no such distress shall authorise the seizure or sale of any bedstead, bedding, wearing apparel, culinary articles in domestic use, or tools of trade.

Distress and sale.

In the event of any such distress not realising sufficient to pay the amount levied together with costs as aforesaid, the president or vice-president may from time to time cause further and other distress to be made as aforesaid until the full amount of the debt then due

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and all costs as aforesaid have been fully paid, or may recover the amount due with costs as aforesaid from the person liable to pay the said rate, charge, or sum.

Disposal of proceeds  
of sale.

**22.** Out of the moneys arising from the sale of the goods and chattels the bailiff or other person executing the warrant shall first pay the costs aforesaid, and shall then pay the amount for which such distress and sale were made, and pay over the surplus (if any) to the person whose goods have been sold.

Form of warrant of  
distress.

**23.** The warrant of distress may be in the form or to the effect of Schedule C hereto, and in all cases where a distress may lawfully be made every police constable shall, upon being so required by any bailiff or other person distraining, aid in making a distress or sale pursuant to such warrant, and for refusing so to do shall be liable to a penalty not exceeding five pounds :

Provided that to save expense and simplify the collection of moneys due to the Board in respect of one or more properties owned or occupied by the same person, the president or vice-president may include the amounts due to the Board from any one person in one warrant, or the Board may sue for the same in one action at law.

Warrant authorises  
bailiff to remain on  
premises.

**24.** Any warrant issued shall be a good and sufficient authority to the person executing the same, or to his assistant, to remain on the premises during the interval between the making of the distress and the sale of the goods and chattels seized, whether such authority be expressed in the warrant or not, and every distress and sale in pursuance of a warrant shall, subject to the provisions of the Hunter District Water and Sewerage Acts, 1892-97, be conducted and carried out as nearly as practicable in accordance with the provisions of the Act fifteenth Victoria number eleven, or any Act regulating distress for rent and replevins.

The Board may appoint some competent person to be its bailiff for the purpose of levying rates, charges, or sums due to the Board by distress and sale ; and any bailiff so appointed shall have power and authority to sell by public auction any goods and chattels seized under any warrant of distress as aforesaid without taking out any license as an auctioneer.

President and  
vice-president not  
personally liable.

**25.** The president or vice-president shall not be held to be personally liable for the non-performance of any official duties imposed upon them or either of them by or under this Act, nor for any proceedings in connection therewith made, commenced, or continued by them or under their direction in their official capacity of president or vice-president.

Assessment and  
other books of Board  
evidence.

**26.** In any proceeding to levy or recover, or consequent on the levying or recovering of any rate, the assessment book and the rate ledgers

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ledgers or other books of account of the Board or certified copies thereof or extracts therefrom purporting to be signed by the president or vice-president shall upon the production thereof in any Court be prima-facie evidence of the assessment and rate, and that the same was duly made under the provisions of the Hunter District Water and Sewerage Acts, 1892-97, and that the notices prescribed and other requirements of the said Acts have been given and complied with.

27. All rates, charges, costs, and expenses imposed or incurred by the Board after the commencement of this Act if unpaid shall remain a charge upon the property for two years from the time such sums first become payable; and, if at the expiration of the time named the owner of such property remains unknown to the Board after diligent inquiry made, the Board shall within three months from such date of expiry publish a notice in the Gazette and at least three times at intervals of one week in a newspaper circulating in the district in which the property is situated, containing particulars of same and of the sums due thereon, and upon final publication of such notice the said sum shall remain a charge on the said property until payment thereof, and may be subsequently recovered from any person who is the owner at the time such action for recovery is taken, together with interest at the rate of five per centum per annum from the date on which such sums first became payable and full costs of action :

Rates and charges to be a charge on property.

Provided that nothing herein contained shall prevent the Board in the event of the property becoming occupied after the publication of any such notice recovering from the occupier thereof the sums due in respect of such property.

28. Where any owner or lessor of any property assessed is by contract liable to pay any rate, costs, charges, or expenses under the Hunter District Water and Sewerage Acts, 1892-97, or under any by-law made thereunder, and such sum has been required from and paid by any lessee or occupier, or where an occupier pays rates for a period prior to or extending beyond his term of occupancy, such lessee or occupier may set off the sum so paid against any rent then due from him to such owner or lessor in respect of such property, and the official receipt for such payment shall be a discharge of rent and evidence of payment to the amount specified therein.

Right of occupier to set off payments as against rent.

If the sum so paid exceeds the rent then due, or if no rent be then due, such lessee or occupier may either set off such excess against accruing rent, or may recover the same by action as for money paid to the use of the owner or lessor.

29. Where any rates, costs, charges, or expenses have been recovered from and paid by a mortgagee of any property he may, unless he be liable to pay the same under or by virtue of his mortgage, recover the same by action from the mortgagor as for money paid to his

Mortgagee may recover rates paid from mortgagor.

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his use, with costs as between attorney and client, or add any amount so paid by him to the mortgage debt, and charge interest on the same at the rate specified in the mortgage.

Lessor to bear half  
cost of water supply  
or sewerage.

**30.** Any lessee, and the executors, administrators, and assigns of any lessee of property assessed under the Hunter District Water and Sewerage Acts, 1892-97, who holds under a lease for a term whereof a period less than five years remains unexpired, when the expenses hereinafter mentioned are incurred, shall be entitled to receive from his lessor, his executors, administrators, or assigns, a moiety of the expenses which such lessee or any under-lessee, or the executors, administrators, or assigns of such lessee may have paid to the Board for providing, laying down, and fixing in readiness for use such service pipes or other prescribed fittings as are necessary for conveying the water from the main pipe to such property, or for providing, laying down, and fixing as aforesaid any drains or other works of sewerage or drainage prescribed, and may in addition to any other remedy deduct such moiety from any rent due or to accrue due under such lease.

Occupier must state  
name of owner.

**31.** The occupier of any property who, on being required by any officer of the Board to state the name of the owner of such property or of the person receiving or authorised to receive the rents of the same, refuses or wilfully omits to disclose, or wilfully misstates to such officer, the name of the said owner or person shall be liable to a penalty not exceeding five pounds.

No jurisdiction  
ousted on the ground  
that title to land is  
in question.

**32.** In any proceedings for recovering rates, costs, charges, or expenses due to the Board, no jurisdiction otherwise competent shall be ousted upon the ground that the proceedings raise a question of title to land.

Purchaser of  
property to give  
notice of sale or  
lease.

**33.** Every purchaser of property liable to be rated under the Hunter District Water and Sewerage Acts, 1892-97, shall, within ninety days after the completion of his purchase, give written notice thereof to the Board, stating his name and address, and on failure to comply with any of the provisions of this section shall be liable to a penalty not exceeding ten pounds.

Rates and charges  
may be recovered  
under 10 Vic. No. 10.

**34.** Notwithstanding anything contained in the Small Debts Recovery Act, tenth Victoria number ten, or any Act amending the same, all rates and charges for water and sewerage, and all money payable for work done by the Board, in accordance with the Principal Act, or any Act amending the same, or any by-law made thereunder not exceeding in any case thirty pounds, may be sued for and recovered under the provisions of the Small Debts Recovery Act, tenth Victoria number ten:

Provided that for all purposes of prohibition and appeal every judgment given under the authority of this section shall be deemed to be an order made by justices in their summary jurisdiction.

*Power*

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*Hunter District Water and Sewerage Act Amendment.*

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*Power to deal with ratable property for arrears of rates.*

35. (I) Where any rates, costs, charges, or expenses due under the Hunter District Water and Sewerage Acts, 1892-97, in respect of any property, have been unpaid for a period of four years, and after diligent search the Board is unable to discover the name and address within the Colony of the owner, and is unable to recover the rates due, the Board may cause to be published in three consecutive issues of the Gazette, and in three consecutive issues of a newspaper circulating in the municipality or place within which such property is situated, or the place nearest thereto, a notice setting out the total amount of rates, costs, charges, and expenses due to the Board in respect of such property, and demanding payment of the same, with interest as hereinbefore provided, within one year from the date of the first publication as aforesaid.

Board may lease property for overdue rates or charges.

If after one year from the first publication of such notice all or any part of the sum set out therein be still unpaid, the Board may take possession of such property and hold the same against any other person whomsoever, and so long as the whole or any part of the sum set out in the notice, or of any rate, charge, or sum lawfully accruing due since the publication of the notice remains unpaid, may let such property from year to year or for a term not exceeding seven years, or in case of vacant lands for a term not exceeding twenty-one years, and may receive the rents thereof, and shall apply the same towards the payment of the rates, costs, charges, and expenses, and hold any surplus for the owner of the property.

Upon the application of any person who, but for the provisions of this section, would be entitled to the possession of such property, the Supreme Court or a Judge thereof may, upon satisfactory proof of title and upon payment into Court of any such rates, costs, charges, and expenses then due and unpaid, order the Board to deliver up to the applicant possession of such property, and to pay over to the applicant any such surplus as aforesaid:

Provided that the rights of a lessee of the Board under this section shall not be affected by any order made as aforesaid; but that, on the making of the order, the lessee shall attorn to the applicant.

(II) In lieu of letting or continuing to let such property the Board may, by petition to the Supreme Court or any Judge thereof, apply for a sale of the property described in such notice, or any part thereof, and the Court or Judge, on being satisfied by affidavit or otherwise that the amount set out in such notice was lawfully due at the time of the first publication of such notice, and that all or any part thereof remains unpaid at the date of the application, and that all conditions have happened, all things have been done, and all times have elapsed as required by the provisions of this section to entitle the Board to let or continue to let the said property, and that the Board cannot,

Property may be sold under order of Supreme Court.

*Hunter District Water and Sewerage Act Amendment.*

cannot, by letting or continuing to let, realise sufficient revenue to provide for all expenses payable in respect of such property, and for the rates, charges, or other sums of money then lawfully due and owing to the Board or to accrue due in respect thereof, may order the sale by the master or other officer of the Court by public auction on a date named in such order of such property or of any part thereof.

The proceeds of such sale shall be paid into Court, and the Court or Judge may order that there be paid out to the Board in priority to any mortgage or other security on the property all rates, costs, charges, or expenses due up to the time of such sale, with interest at the rate of five per centum per annum from the due date of such rates, and all other charges, together with all costs of and attending search at the Lands Titles Office, or the office for the registration of deeds, for the name and address of the owner or mortgagee, and the costs of and attending the publication of the notices, and the application to the Court or Judge, and of and attending the sale as aforesaid, and that the balance be subject to any future or other orders of the Court, and may further order that the conveyance or deed of assurance, as the case may require, be executed by the master or other officer of the Court in such form as may be approved by the Court or Judge.

Such conveyance or deed of assurance shall vest the legal estate in the property sold in the purchaser free from all encumbrances and trusts.

## PART IV.

*Statements of expenditure and accounts.*

Statements of  
expenditure to 30th  
June, 1897.

36. (i) As soon as practicable after the commencement of this Act, the Minister shall cause statements to be prepared and furnished to the Board showing the respective amounts expended up to the thirtieth day of June, one thousand eight hundred and ninety-seven, on all works constructed by or vested in the Board—

- (a) in the purchase or acquisition of land and on permanent or other works which do not require maintenance or reconstruction (hereinafter called “permanent works”);
- (b) on works which require maintenance or reconstruction (hereinafter called “renewable works”);

with interest from the respective days of the expenditure to the thirtieth day of June, one thousand eight hundred and ninety-seven, at the rate of three and a half per centum per annum.

(ii) On receipt of the said statements the Board may report to the Minister making such recommendations as may be thought fit.

(iii) The Minister shall consider the said report, and shall finally determine the respective amounts and the classification of the expenditure, and after deducting from the total amount thereof the difference between

*Hunter District Water and Sewerage Act Amendment.*

between the revenue and expenditure of the Board for the same period determined as hereinafter provided shall notify the same in the Gazette and in one or more local newspapers circulating in some water or sewerage district.

(iv) Provided that the Governor may make such partial remission of or deductions from the amounts expended as he may think just under any special circumstances.

37. At the end of every period of twelve months, beginning with the first day of July, one thousand eight hundred and ninety-eight, the respective amounts expended during the said period on all works constructed by or vested in the Board shall be determined, classified, and notified as in the last preceding section.

Yearly statement of expenditure.

38. Upon any notification being made as provided in the two last preceding sections, the Governor shall determine and notify in the Gazette, and in one or more local newspapers circulating in some water or sewerage district, the periods within which equal yearly payments shall be made to the sinking fund to be established as hereinafter provided on account of renewable works, having regard to the nature and durability of the works. The payments shall be such annual sums as would at the end of the said periods amount to the expenditure, with interest thereon calculated yearly at the rate of three and a half per centum per annum.

Payments to sinking fund on account of renewable works.

39. (i) As soon as practicable after the commencement of this Act the Colonial Treasurer shall cause statements to be prepared and furnished to the Board showing all the expenditure of the Board other than the expenditure referred to in section thirty-six of this Act, and all the moneys received by the Board and paid into the Treasury up to the thirtieth day of June, one thousand eight hundred and ninety-seven.

Statements of other expenditure.

(ii) Interest at the rate of three and a half per centum per annum shall be charged and allowed from the dates of the expenditure and receipt aforesaid up to and inclusive of the thirtieth day of June, one thousand eight hundred and ninety-seven.

(iii) The balance shown on such statements shall be deducted from the total amount of the capital debt at the thirtieth day of June, one thousand eight hundred and ninety-seven, determined in the manner herein provided.

40. There shall be kept in the Treasury an account to be called the "General Account of the Hunter District Water and Sewerage Board," hereinafter called the "General Account," and an account to be called the "Sinking Fund Account of the Hunter District Water and Sewerage Board," hereinafter called the "Sinking Fund Account," and such other accounts as the Colonial Treasurer may determine.

General Account and Sinking Fund Account to be kept in Treasury.

All revenue of the Board shall be paid into the Treasury or to the Bank keeping the Public Account. And all necessary expenditure in management and working expenses of the Board, and in the reconstruction and maintenance of renewable works shall be advanced to the Board out of the Consolidated Revenue Fund.

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*Hunter District Water and Sewerage Act Amendment.*

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General Account.

**41.** The General Account shall, in each year, commencing from the first day of July, one thousand eight hundred and ninety-seven, be debited with—

- (a) interest at the rate of three and a half per centum per annum on all expenditure on permanent and renewable works notified as hereinbefore provided up to the end of the preceding year;
- (b) the yearly payments for renewable works credited to the Sinking Fund Account as hereinafter mentioned;
- (c) all expenses of management and working expenses of the Board.

The said account shall be credited with all revenues of the Board paid into the Treasury or into the Bank keeping the Public Account, and interest at the rate of three and a half per centum per annum shall be charged and allowed respectively on the balance brought forward from time to time, and on such expenditure and receipts from the dates thereof to the thirtieth day of June in each year.

Sinking Fund Account.

**42.** The Sinking Fund Account shall be debited with all amounts advanced to the Board from the Consolidated Revenue Fund for the reconstruction and maintenance of renewable works, and shall be credited with the yearly payments on account of renewable works under section thirty-eight of this Act.

Interest in respect of this account at the rate of three and a half per centum per annum shall be adjusted on the thirtieth day of June in each year as directed in the last preceding section in respect of the General Account.

Interest chargeable.

**43.** All interest directed to be charged on expenditure and revenue respectively shall be credited or debited to the Consolidated Revenue Fund.

Application of Audit Act.

**44.** The provisions of the Audit Act in force for the time being, or any Act regulating the collection of public moneys and the audit of the public accounts, shall apply to the Board, and to all officers acting under its authority and control, and to any agent appointed by the Board under the provisions of section twenty-eight of the Principal Act.

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**PART V.***Construction of works.*

Minister to notify Board of intended construction of works.

**45.** Notwithstanding anything contained in the Hunter District Water and Sewerage Acts, 1892-97, the Minister shall, before authorising any expenditure in connection with the initiation, construction, or completion of any works (not being works specially authorised by Act of Parliament passed before the commencement of this

*Hunter District Water and Sewerage Act Amendment.*

this Act) in respect of water supply, sewerage, or storm-water drains and sewers situated within the boundaries of the water and sewerage districts respectively, whether the said works were initiated before or after the commencement of this Act, cause the Board to be advised of his intention to incur such expenditure, and of the estimated amount thereof as nearly as the same can then be ascertained, with such other information and particulars as he may deem necessary.

The Board upon receipt of such notice shall report on such matter, and make such recommendations to the Minister in respect thereof as the circumstances may require.

The Minister shall, after consideration of such recommendations, decide thereon, and the Minister's decision shall be final :

Provided that if the Board should at any time desire to prepare a scheme for the carrying out of any such works the Minister may, on such conditions as he may think fit, permit the Board so to do, and if upon such scheme being submitted, the Minister approves thereof, he shall cause the same to be carried out according to law :

Provided also, that in any case where the Minister is the Constructing Authority authorised to carry out any such works, he may permit such works to be carried out by the Board, and in such case all powers and liabilities exercisable by or attaching to the Minister as such Constructing Authority shall be exercisable by and attach to the Board.

46. (i) If in carrying out the sewerage or storm-water drains or sewers of any municipality in connection with the approved or any other scheme the Constructing Authority is of opinion that the whole or any portion of the sewerage or drainage works constructed by the council of the municipality may be beneficially used in connection with the scheme, such works or such portion thereof may be so used. Constructing  
Authority may take  
over works of  
Council.

(ii) Upon notification in the Gazette to that effect by the Constructing Authority, the works therein described shall thereupon, by virtue of this Act, be transferred to and vest in the Constructing Authority on behalf of Her Majesty free from any charges on the same.

(iii) The council of the municipality shall be credited with the amount by which the cost to the Constructing Authority of the works comprised in the scheme is lessened by the taking over the works of the council.

(iv) The amount so credited shall be charged against the scheme, and may from the moneys provided therefor be paid to the council, or in liquidation of any such sum or sums borrowed by the council and expended on or in connection with the works so constructed by them and taken over by the Constructing Authority, or may be paid to such person in such manner and subject to such terms and conditions as the Constructing Authority may require.

*Hunter District Water and Sewerage Act Amendment.*

## PART VI.

*Miscellaneous provisions.*

Supply of water.

**47.** The Board may supply any person with water for any purpose whatsoever, by measure or otherwise, at such charges, upon such terms, and subject to such conditions as may be agreed upon by the Board and the person requiring to be supplied.

By-laws to have force of law.

**48.** All by-laws made under the provisions of the Hunter District Water and Sewerage Acts, 1892-97, when approved by the Governor and published in the Gazette, but not sooner or otherwise, except as hereinbefore otherwise provided, shall have the force of law.

The Board shall, as soon as practicable after the publication in the Gazette, cause all by-laws to be published in one or more local newspapers circulating in some water or sewerage district.

In all proceedings in any Court the production of the Gazette containing any such by-law shall be prima facie evidence of such by-law having been made, and that all the provisions of the said Acts relating to the making and approval of such by-law have been duly complied with.

Owner or occupier may employ licensed persons to lay pipes.

**49.** Any owner or occupier of property within any water district who wishes to have water brought to his property from the mains of the Board, and who has paid or tendered in advance to the Board the water rate in respect of such property may employ any person licensed in that behalf by the Board to open the ground between the pipes of the Board and such property, having first obtained the consent of the owners and occupiers of such ground, and may lay any pipes and fittings from such property to communicate with the pipes of the Board, or remove, alter, or repair such pipes and fittings.

Such pipes shall be of a strength and material approved by some officer of the Board, and every such licensed person shall, before he begins to lay, alter, or repair any such pipe or fittings, give to the Board two days' notice of his intention to do so.

Board not obliged to supply water.

**50.** Notwithstanding the provisions of section sixty-three of the Principal Act, the Board may, but shall not be obliged to provide the water supply in that section mentioned.

Construction of Act.

**51.** This Act shall be construed as one with the Hunter District Water Supply and Sewerage Act of 1892, so much of the Country Towns and Hunter District Water Supply and Sewerage Acts Amendment Act of 1894 as amends the first-mentioned Act, and the Hunter District Water Supply (Partial Duplication) Act, 1895.

## SCHEDULE A.

Municipality or District of

FORM of an Assessment of the net annual value of all property liable to be rated in the Municipality (*or* District) of \_\_\_\_\_ by virtue of the Hunter District Water and Sewerage Acts, 1892-1897, or any Act amending same, for the year commencing the first day of July, 18 \_\_\_\_.

[illegible]

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*Australasian Federation (Representatives' Allowance).*


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## SCHEDULE B.

*Table of Costs.*

For every warrant of distress one shilling.

For every levy one shilling.

For man in possession one shilling per hour for the first three hours, and if longer detained six shillings per day or part of a day.

For inventory, sale, commission, and delivery of goods not exceeding one shilling in the pound on the net proceeds of the sale.

## SCHEDULE C.

*Warrant of Distress.*

NEW SOUTH WALES } To constable at , or bailiff (as  
TO WIT. } *the case may be*).

WHEREAS of in New South Wales has been rated at the sum of per annum for the water rate [*or charge or is liable to pay the sum of due to the Hunter District Water Supply and Sewerage Board*] as the occupier [*or owner*] of certain property situate in street in and now occupied by ; and whereas the sum of being due and payable on account of the said rate, charge, or sum [*as the case may be*] on the day of in the year of our Lord one thousand hundred and , and was duly demanded by the collector of rates for on the day of in the year of the said who has not yet paid the same. These are therefore to require and authorise you forthwith to levy the said sum of together with costs of the presents by distress and sale of the goods and chattels found by you in the said property according to law, and that you certify to me on the day of what you shall do by virtue of this warrant.

Given under my hand this day of in the year of our Lord one thousand hundred and

President [*or Vice-President*] of the  
Hunter District Water Supply and Sewerage Board.

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