

COBAR WATER SUPPLY ACT.

Act No. 44, 1963.

An Act to make provision for and in relation to an Elizabeth II, No. 44, 1963 augmented water supply to the town of Cobar and for mining purposes; to provide for the constitution of the Cobar Water Board and to define its powers, authorities, duties and functions; to extinguish certain indebtedness of the Cobar Shire Council; and for purposes connected therewith. [Assented to, 13th December, 1963.]

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:—

1. (1) This Act may be cited as the "Cobar Water Supply Act, 1963".

Short title and commencement.

(2)

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(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Interpreta-
tion.

2. In this Act, unless inconsistent with the context or subject matter—

“Board” means the Cobar Water Board constituted under this Act.

“Catchment district” means any catchment district from time to time proclaimed in respect of the Cobar Storage Dam under the Local Government Act, 1919, as amended by subsequent Acts.

“Council” means the Cobar Shire Council.

“Member” means member of the Board.

“Mining company” means any corporation for the time being engaged in mining operations or any corporation related, within the meaning of subsection five of section six of the Companies Act, 1961, to that corporation.

“Prescribed” means prescribed by this Act or by regulations.

“President” means the President of the Board.

“Public authority” includes the Governor, any Minister of the Crown, any statutory body representing the Crown, and the Council.

“Public road” means road which the public are entitled to use and includes any road dedicated as a highway by the Crown or by any person, or a road notified, proclaimed, or dedicated as a public road or highway under the provisions of any Act.

“Regulations” means regulations made under this Act.

“Statutory body representing the Crown” means any body defined by or proclaimed under the Local Government Act, 1919, as amended by subsequent Acts, as a statutory body representing the Crown.

3. (1) There shall be a Board to be called The Cobar Water Board which shall have and may exercise and discharge the powers, authorities, duties and functions conferred or imposed upon it by or under this Act. No. 44, 1963
Constitution of the Board.

(2) The Board shall consist of three members appointed by the Governor.

(3) Of the members so appointed—

- (a) one shall be an officer of the Public Service who shall be the President;
- (b) one shall be selected by the Minister from a panel of two persons nominated jointly by Cobar Mines Proprietary Limited, Cobar South Proprietary Limited, Conzinc Riotinto of Australia Limited, Broken Hill South Limited and such other mining companies as the Minister determines;
- (c) one shall be nominated by the Cobar Shire Council.

(4) If no nomination under paragraph (b) or (c) of subsection three of this section is made within the time notified in writing by the Minister to the persons entitled to make the nomination the Minister may make the nomination for the purpose of the said paragraph (b) or (c).

(5) A member shall, subject to this Act—

- (a) hold office for such period not exceeding five years as may be specified by the Governor in the instrument of his appointment; and
- (b) be eligible for re-appointment on the expiration of his term of office.

(6) The provisions of the Public Service Act, 1902, or of any Act amending that Act, shall not apply to the appointment of members and members shall not in their capacity as members be subject to the provisions of any of the said Acts during their term of office.

No. 44, 1963**Vacancies.**

4. The office of any member shall become vacant if he—

- (a) dies;
- (b) resigns his office by writing under his hand addressed to the Governor;
- (c) is removed from office by the Governor;
- (d) becomes bankrupt, compounds with his creditors or makes an assignment of his estate for their benefit;
- (e) is convicted of a felony or indictable misdemeanour;
- (f) becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts;
- (g) without permission of the Board fails to give his attendance at four consecutive meetings of the Board; or
- (h) being the President ceases to be an officer of the Public Service.

**Remunera-
tion of
members.**

5. (1) The President shall be entitled to receive as remuneration for his services such annual sum as may be determined by the Governor.

(2) Each of the members other than the President shall respectively be entitled to receive as remuneration for his services a sum not exceeding one hundred pounds per annum, to be paid in the form of a fee of such amount as may be prescribed for each meeting of the Board attended.

(3) The office of a member shall not, for the purposes of the Constitution Act, 1902, as amended by subsequent Acts, be deemed to be an office of profit under the Crown.

6. (1) The Board may pay to or on behalf of its members reasonable allowances towards their necessary out-of-pocket expenses for conveyance and subsistence in travelling—
Travelling expenses.

- (a) to and from the meetings of the Board;
- (b) upon inspections connected with the exercise and discharge of the Board's powers, authorities, duties and functions, provided such inspections are undertaken in compliance with resolutions of the Board passed beforehand;
- (c) upon business of the Board in compliance with a resolution of the Board.

(2) Allowances under this section shall not exceed such amount as may be prescribed.

7. (1) Any resolution of the Board shall only be deemed to be of full force and effect if passed by at least two members of the Board at a meeting of the Board. Proceedings of the Board.

(2) The Board shall keep full and accurate minutes of all of its proceedings.

8. (1) The Board shall be a body corporate, with perpetual succession and a common seal, and may sue and be sued in its corporate name, and shall for the purposes and subject to the provisions of this Act, be capable of purchasing, holding, granting, demising, disposing of or otherwise dealing with real and personal property, and of doing and suffering all such acts and things as bodies corporate may by law do and suffer. Incorporation and style of Board.

(2) The corporate name of the Board shall be "The Cobar Water Board."

(3) The common seal shall be kept in the custody of the President or of such member as the Board may determine and shall not be affixed to any instrument or writing except in the presence of two members of the Board who shall attest by their signatures the fact and the date of the seal being so affixed.

(4)

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(4) All courts and persons having by law or consent of parties authority to hear, receive, and examine evidence—

(a) shall take judicial notice of the seal of the Board affixed to any document; and

(b) shall, until the contrary be proved, presume that such seal was properly affixed thereto.

(5) No act or proceeding of the Board shall be invalidated or prejudiced by reason of any defect or irregularity in the constitution of the Board or in the appointment of any member or by reason of there being any vacancy in the office of a member at the time of such act or proceeding.

Crown debts.

9. Any moneys due to the Board shall, for the purposes of the recovery thereof, be deemed to be moneys due to Her Majesty, and shall be deemed to be charged on all the assets of the debtor and may be sued for and recovered by the Board.

Members acting bona fide not personally liable.

10. (1) No matter or thing done and no contract entered into by the Board, and no matter or thing done by any member or officer of the Board or by any other person whomsoever acting under the direction of the Board shall if the matter or thing was done or the contract was entered into bona fide for the purpose of executing this Act, subject them or any of them personally to any action, liability, claim or demand whatsoever.

(2) Nothing in this section shall exempt any member from liability to be surcharged with the amount of any payment which is disallowed by the auditor in the accounts of the Board, and which such member authorised or joined in authorising.

Officers and workmen.

11. The Board shall appoint and employ a secretary and such other officers and workmen to assist in the execution of this Act as it may think necessary. The officers and workmen so appointed shall continue in the employ of the Board at the will of the Board only.

12.

12. Subject to the provisions of this Act the Board shall have and may exercise the following powers, authorities, duties and functions :—

(a) the carrying out of the works described in the Schedule to this Act;

(b) the provision of raw water by metered bulk supply to the Council, mining companies and other consumers approved by the Board;

(c) the administration and management of all properties vested in it;

(d) the operation, repair, and maintenance of any works vested in it;

(e) the carrying out, with the approval of the Minister, of any new, additional, or supplementary works to provide the supply of raw water to consumers;

(f) the provision of offices, stores, warehouses, depots, and other accommodation;

(g) such other powers, authorities, duties and functions as are conferred and imposed upon it by this Act.

13. (1) For the purposes and subject to the provisions of this Act the Board may—

(a) enter upon any lands and take levels of the same and set out such parts thereof as it shall think necessary, and dig, break, and trench the soil of such lands and remove or use all earth, stone, mines, minerals, trees, or other things dug or obtained out of or from the same;

(b) enter upon and take temporary possession of such lands as it may from time to time deem necessary for the operation, repair, and maintenance of any works;

(c) from time to time sink such wells or shafts and make, maintain, alter, or discontinue such reservoirs, waterworks, cisterns, tanks, aqueducts, drains, cuts, sluices,

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sluices, pipes, culverts, engines and other works and erect such buildings upon lands, streams, and water-courses as it shall think proper;

- (d) from time to time divert and impound the water from any streams as it may think fit and alter the courses of the same, and also take such waters as may be found in, under, or on any lands for the purposes of this Act;
- (e) enter upon any Crown or private lands, public road, or street, and may lay or place therein any water main, pipe, or drain, or repair, alter, cut off or remove the same;
- (f) alter, repair, or renew, pull down or re-erect any works authorised by or under this Act;
- (g) do any act not otherwise unlawful which may be necessary to the proper exercise and discharge of its powers, authorities, duties and functions.

(2) In the exercise of any of its powers, authorities, duties and functions the Board shall inflict as little damage as may be, and in all cases where it can be done shall provide other watering-places, drains, and channels for the use of adjoining lands in place of any taken away or interrupted by it, and shall make full compensation to all parties interested for all damage sustained by them through the exercise of such powers.

(3) The Board shall not be liable to make compensation in respect of any damage sustained by reason of the exercise of any of its powers unless a claim in writing shall be made for the compensation within six months after the damage is sustained; and in every case where the Board cannot agree with the owner or claimant the amount of compensation shall be ascertained and the case in other respects shall be dealt with under the provisions of the Land and Valuation Court Act, 1921, as amended by subsequent Acts, as if it were a case in which a claim for compensation by reason of the acquisition of land for public purposes under the Public Works Act, 1912, as amended by subsequent Acts, had been made.

14. (1) The Board may make and enter into contracts or No. 44, 1963 agreements with any person for the performance of services, Contracts. or for the supply of goods, machinery, or material, in connection with the discharge or exercise by the Board of its powers, authorities, duties and functions.

(2) Any contract or agreement authorised by this Act shall, subject to this Act, be in the name of the Board and may be made as follows, that is to say—

with respect to any contract or agreement which if made between private persons would be by law required to be in writing and signed by the parties to be charged therewith or in writing and under seal the Board may make such contract in writing and under their common seal and in the same manner may vary or discharge the same;

with respect to any contract or agreement which if made between private persons would by law be valid although made by parol only and not reduced into writing the President may make such contract by parol only without writing and in the same manner may vary or discharge the same.

15. (1) The Board may enter into agreements relating to Agreements. the supply of raw water, the contributions to be paid by consumers towards the capital cost of any works carried out under this Act, together with interest thereon, and other expenditure incurred by the Board pursuant to this Act, and the rates and charges to be made for such supply.

(2) Any such agreement—

- (a) shall be subject to the approval of the Minister;
- (b) may contain provisions as to the respective proportions of the said capital cost and the interest thereon to be met by the Treasurer, Council, mining companies or other persons supplied with raw water by the Board pursuant to such agreement, the period over which such proportions are to be paid and the intervals at which and the methods by which such

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such payments are to be made, the determination of the amount of the said capital cost, and the guarantees or indemnities to be provided by any party to such agreement;

- (c) shall contain such other provisions, terms and conditions as may be agreed upon.

Works to be carried out by Minister.

16. (1) (a) The works described in the Schedule to this Act and the works referred to in paragraph (e) of section twelve of this Act shall notwithstanding anything contained in this Act, be carried out on behalf of the Board by the Minister.

(b) Such work shall be carried out by the Minister in accordance with such terms and conditions as may be contained in any arrangement or agreement made or entered into by the Board with the Minister, or, in the absence of such arrangement or agreement, as may be prescribed.

(c) The costs and expenses incurred by the Minister in making surveys and acquisitions of land in connection with any such work and in designing and carrying out any such work and matters incidental thereto shall be defrayed out of moneys provided by the Board for the purpose.

(2) (a) (i) Any such work shall be deemed to be an authorised work within the meaning of the Public Works Act, 1912, as amended by subsequent Acts.

(ii) The Minister shall carry out any such work and shall be the constructing authority for the same within the meaning of the said Act, as so amended, and shall enter into such contracts and take all such necessary steps for the proper execution thereof as such authority may think proper.

(iii) The provisions of the Public Works Act, 1912, as amended by subsequent Acts, sections thirty-four, thirty-five, thirty-six and thirty-seven excepted, shall apply to and in respect of any such work.

(b)

(b) Without prejudice to the generality of No. 44, 1963 paragraph (a) of this subsection, the provisions of section thirty-eight of the Public Works Act, 1912, as amended by subsequent Acts, shall apply to and in respect of any contracts referred to in subparagraph (ii) of paragraph (a) of this subsection.

(3) Where any work is carried out under this section by the Minister, then for the purpose of carrying out such work the Minister shall have and may exercise and discharge all or any of the powers, authorities, duties and functions which the Board would have had and might have exercised and discharged if the Board were itself carrying out such work.

17. (1) Upon the completion of any work or part thereof constructed by the Minister under the authority of this Act of works. the Governor may by proclamation published in the Gazette declare that the work or part is transferred to the Board.

The lands occupied or used in connection with the work or part shall thereupon become vested in the Board on trust for Her Majesty.

(2) Where the Minister possesses a less estate or interest in any land than the fee simple that estate or interest only shall become or be vested in the Board on trust for Her Majesty.

(3) As from a date to be appointed by the Governor and notified by proclamation published in the Gazette the Cobar Storage Dam and the rising main from the Cobar Storage Dam to the C.S.A. mine shall be transferred to and become vested in the Board on trust for Her Majesty.

Where the Minister is of opinion that agreements including provisions relating to such of the matters referred to in section 564B of the Local Government Act, 1919, as amended by subsequent Acts, as he considers appropriate should be entered into between the parties having the control and management of the Cobar Storage Dam and the said rising main and the Board, no such proclamation shall be published unless such agreements have been entered into and approved by him.

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(4) On the day upon which the Cobar Storage Dam is transferred to and becomes vested in the Board as aforesaid the amount of seven thousand three hundred and seventy-nine pounds nineteen shillings and threepence owing by the Council to the Treasurer in respect of the same and all interest accrued thereon shall cease to be due and payable to the Treasurer.

Power to break up streets and to open drains.

18. Subject to the provisions of this Act, the Board may open and break up the soil and pavement of any paths, roads, streets, and bridges, and any sewers, drains, or tunnels within or under such paths, roads, streets, and bridges, and lay down and place pipes, and other works and fittings, and from time to time repair, alter, or remove the same; and for the purposes aforesaid may remove and use all earth and materials in and under such paths, roads, streets, and bridges, and do all other acts which the Board from time to time deems necessary.

Notice to be served before breaking up streets or opening drains.

19. (1) Before the Board opens or breaks up the soil or pavement of any path, road, street, or bridge or any sewer, drain, or tunnel, it shall give to the public authority under whose control or management the same may be, or to their clerk, engineer or other proper officer, notice in writing of its intention to open and break up the same.

(2) Such notice shall be given not less than seven clear days before beginning the work, except in cases of emergency arising from defects in any pipes or other works or fittings, and then so soon as possible after the beginning of the work or after the necessity for the same has arisen.

Streets broken up to be reinstated without delay.

20. (1) When the Board opens or breaks up the soil or pavement of any path, road, street, or bridge, or any sewer, drain, or tunnel, it shall with all convenient speed complete the work for which the same is broken up and fill in the ground and reinstate and make good the path, road, street, or bridge, or the sewer, drain, or tunnel so opened or broken up, and carry away the rubbish occasioned thereby.

(2)

(2) The Board shall at all times whilst any such path, **No. 44, 1963** road, street, or bridge is so open or broken up cause the same to be fenced and guarded, and shall cause a light sufficient for the warning of persons passing by to be set up and kept there throughout every night during which such path, road, street, or bridge continues open or broken up.

(3) It shall make such temporary and other works for the convenience of persons passing by and traffic as the circumstances may require.

(4) It shall, after replacing and making good the path, road, street, or bridge so broken up, keep the same in good repair for six months thereafter.

(5) A council, if a public road becomes damaged by reason of leakages from the mains of the Board, or the bursting of any main of the Board, whether or not such leakage or bursting is attributable to the negligence of the Board or an officer or servant thereof, may require the Board to make good the damage.

(6) If the Board omits to give notice as required or fails to perform or makes any unnecessary delay in performing any of the said duties required to be performed by it, it shall for every such offence forfeit to the public authority having the control or management of the path, road, street, or bridge, sewer, drain, or tunnel in respect of which the default is made a sum of not more than five pounds and an additional sum of five pounds for each day during which any delay as aforesaid continues after it has received notice thereof; and the public authority may after notice in writing to the Board cause to be executed any work so delayed or not performed; and the expense thereof shall be repaid to it by the Board, and may be recovered with full costs in any court of competent jurisdiction.

21. If the Board at any time deems it necessary for the ^{Alteration} purposes of this Act to raise, sink, or otherwise alter the ^{of} _{services} position of any services including water pipes or electric wires, laid in or under any street the Board may, by notice in writing,

No. 44, 1963 writing, require the person to whom the said services belong to raise, sink, or otherwise alter the situation of the same in such manner and within such reasonable time as is specified in such notice.

The expenses attendant upon or connected with such alterations shall be paid by the Board.

If such notice is not complied with the Board may subject to the provisions of this Act make the alterations required.

No such alteration shall be required or made which will permanently injure any such services or prevent vehicles from passing as freely and conveniently as usual.

Supply by
measure,
&c.

22. (1) The Board may supply any person with raw water by measure or otherwise at such rates upon such terms and subject to such conditions as the Board may determine.

(2) The Board shall fix rates or charges at which raw water may be purchased from the Board if in the opinion of the Board it is available.

(3) The rates or charges may vary according to the purpose for which the water is purchased or the point at or district in which the water is delivered.

Failure
of
supply.

23. The Board shall not under any circumstances be liable to damages for not supplying water or by reason that the supply shall not be fit for dietetic purposes, nor shall the Board be compellable to supply water to any person whomsoever.

Board's
duty to
protect
supply.

24. (1) The Board shall take effective measures to protect the supply of water from being illegally diverted, polluted, misused, or wasted, and to maintain an adequate supply.

(2) In the case of drought or of any accident or unavoidable cause the Board may regulate the use of raw water supplied by the Board for any purpose, and the consumption and method of consumption of raw water whether the supply is by measure or otherwise.

25. Any person who unlawfully and maliciously destroys **No. 44, 1963** or damages, or attempts to destroy or damage, any storage reservoir, main, pipe, hydrant, plant, or other work or structure, used for or incidental to the supply of water by the Board shall be liable on conviction to penal servitude for a term not exceeding ten years. ^{Damage to waterworks.}

26. (1) The catchment district in connection with the water supply under the control of the Cobar Shire Council shall be the catchment district in connection with the water supply under the control of the Board. ^{Catchment districts.}

(2) The provisions of Division 7 of Part XIV of the Local Government Act, 1919, as amended by subsequent Acts, and any ordinances thereunder, shall apply, mutatis mutandis, to and in respect of such catchment district and such catchment district may be subject to reproclamation under the said provisions.

For the purposes of such application the Board shall be deemed to be a council.

27. (1) For the temporary accommodation of the Board it may obtain advances by overdraft of current account in any bank or banks upon the credit of the Board's funds to such extent as may from time to time be approved by the Governor. ^{Temporary accommodation.}

(2) The Treasurer may advance such moneys to the Board as the Governor may approve, upon such terms and conditions as to repayment and interest as may be agreed upon.

28. (1) The Board may, from time to time, with the approval of the Governor on the recommendation of the Treasurer, borrow money for— ^{Purposes for which money may be borrowed.}

- (a) the construction of works authorised by this Act;
- (b) the renewal of loans;
- (c) the discharge, or partial discharge, of any indebtedness to the Treasurer or to any bank.

(2)

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(2) Maintenance and repair of works shall not be deemed to be works within the meaning of this section.

**Security
for loans.**

29. Any loan raised under this Act shall be deemed to be secured upon the income of the Board from whatever source arising and is hereby guaranteed by the Government.

**Reserves
for re-
payments.**

30. (1) The Board shall establish a reserve for loan repayment in respect of any loan raised by the Board.

(2) The Board shall during each year transfer to the reserve for loan repayment a sum not less than the Board in its application for approval of the loan intimated that it proposed to set apart as aforesaid.

(3) Where any land or property of any kind which has been provided out of loan moneys is sold before the loan has been wholly repaid, the net proceeds of the sale shall be added to the reserve for loan repayment or paid directly to the lender or used for the provision or purchase of other land or property.

(4) Moneys held as reserve for loan repayment may be invested in Government securities of the Commonwealth of Australia or of the State of New South Wales, or in debentures or inscribed stock in any loan of the Board, or in any securities guaranteed by the Government of the said State, or in debentures or securities issued by the Sydney County Council or the Sydney City Council, or in such other securities as the Governor may approve in each case at their current market price. Any interest or profits realised on such investments shall be added to and form part of the reserve for loan repayment. All moneys paid into the reserve fund for loan repayment in respect of any loan or renewal loan may be applied in or towards repayment of any other loan or renewal loan, but may not be applied for any other purpose until the loan or renewal loan in respect of which the fund has been established has been repaid.

(5)

(5) Where the Board decides to cancel debentures **No. 44, 1963** and inscribed stock of the Board purchased from the reserve for repayment of the loan for which they were issued, then, in addition to the sums otherwise payable to the reserve for loan repayment in respect of that loan, the Board shall, subject to any agreement to which it is a party whereby it undertakes to pay interest at a higher rate to such reserve, pay to such reserve interest at the rate of four and one-half per centum per annum on the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.

(6) This section shall not apply to any loan to be repaid by instalments at intervals of one year or less.

(7) The reserve for loan repayment shall not be subject to seizure in satisfaction of any debt other than for loans primarily charged on the income of the fund in which the reserve is provided.

31. (1) For securing repayment of the principal and Debentures, &c. interest on any moneys borrowed, the Board may issue debentures, inscribed stock or other prescribed securities.

(2) Every such debenture and every coupon originally annexed to the debenture and whether separated therefrom or not shall be transferable by simple delivery.

(3) Inscribed stock shall be transferable in the books of the Board.

(4) Debentures or inscribed stock issued under this Act shall, both as regards the issue and any transfer thereof for full consideration in money or money's worth, be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act, 1920, as amended by subsequent Acts, contained in the Second Schedule to that Act, as so amended.

The regulations may provide for the exemption from stamp duty of any other prescribed security.

(5)

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— (5) The holder of a coupon originally annexed to a debenture and whether separated therefrom or not shall be entitled to receive payment from the Board of the interest mentioned in the coupon upon the presentation of the same on or after the date when and at the place where the interest is payable.

(6) The due repayment of the debentures and stock and the interest thereon and of any loan in respect of which any other security is issued and the interest thereon shall be a charge upon the income and revenue of the Board. Any guarantee by the Government under this Act shall be payable out of moneys provided by Parliament. Such charge shall not prejudice or affect the power of the Board to sell or convey any property vested in it free of any such charge.

Trustees.

32. (1) Any trustee, unless expressly forbidden by the instrument (if any) creating the trust, may invest any trust moneys in his hands in stock inscribed by the Board, and the investment shall be deemed to be an investment authorised by the Trustee Act, 1925, or any Act amending or replacing the said Act.

(2) Any debenture issued or stock inscribed by the Board shall be a lawful investment for any moneys which any company, council, or body corporate incorporated by any Act of the Parliament of New South Wales is authorised or directed to invest in addition to any other investment expressly provided for the investment of such moneys.

(3) No notice of any trust expressed, implied, or constructive shall be received by the Board or by any officer or servant of the same in relation to any debenture or coupon issued or stock inscribed by the Board.

Lost debentures.

33. (1) If any debenture issued by the Board is lost or destroyed or defaced before the same has been paid, the Board may, subject to the provisions of this section, issue a new debenture in lieu thereof.

(2)

(2) The new debenture with interest coupon No. 44, 1963 annexed shall bear the same date, number, principal sum, and rate of interest as the lost, destroyed, or defaced debenture.

(3) When the debenture is lost or destroyed the new debenture shall not be issued unless and until—

- (a) a judge of the Supreme Court has been satisfied by affidavit of the person entitled to the lost or destroyed debenture, or of some person approved by the judge, that the same has been lost or destroyed before it has been paid off;
- (b) such advertisement as the judge may direct has been published;
- (c) six months have elapsed since the publication of the last of the advertisements; and
- (d) sufficient security has been given to the Board to indemnify it against any double payment if the missing debenture be at any time thereafter presented for payment.

(4) When the debenture is defaced the new debenture shall not be issued unless and until the defaced debenture is lodged with the Board for cancellation.

(5) The provisions of this section shall mutatis mutandis extend to the case of a lost, destroyed, or defaced coupon.

(6) In case of the loss, theft, destruction, mutilation, or defacement of any debenture or bond issued under section thirty-one of this Act a duplicate or new debenture or bond may be issued upon proof to the satisfaction of the Board of such loss, theft, or destruction, or upon surrender of the mutilated or defaced debenture or bond, as the case may be, and upon the Board receiving security or indemnity satisfactory to it against any double payment if the missing debenture or bond be at any time thereafter presented for payment.

No. 44, 1963Protection
of
investors.

34. (1) A person advancing money to the Board shall not be bound to enquire into the application of the money advanced, or be in any way responsible for the non-application or misapplication thereof.

(2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the Board shall, in favour of a lender and of any holder of a security given by the Board, be conclusive evidence that all conditions precedent to the borrowing have been complied with.

Debentures
and bonds
to rank
pari passu.

35. All debentures, bonds, or other securities which are at any time secured upon the income and revenue of the Board shall rank pari passu without any preference one above another by reason of priority of date or otherwise.

Inspection
of rate
and valua-
tion books.

36. (1) Any officer of the Board authorised in that behalf shall have liberty at all reasonable times without charge to inspect any valuation, rate, or assessment book of the Council and to take a copy or make extracts from the same.

(2) The shire clerk or other person having the custody of such valuation, rate, or assessment book refusing or preventing such officer from having access thereto or taking copies or extracts therefrom shall incur a penalty for every such offence not exceeding fifty pounds.

Accounts
generally.

37. (1) The Board shall cause books to be provided and kept, and true and regular accounts to be entered therein so as to show—

- (a) the assets, liabilities, income and expenditure of the Board; and
- (b) the sources of income and purposes of expenditure of the funds of the Board.

(2) The accounts of the Board shall be kept as prescribed.

38. The expenditure of the Board shall, subject to any No. 44, 1963 provisions made by or under this Act, be charged against income and capital as nearly as may be in accordance with ^{Charging} ~~expenditure~~ generally. commercial principles.

39. (1) The Board shall cause an annual report of its Annual operations and statements of accounts as prescribed to be ^{statements.} prepared.

(2) The Board shall furnish a copy of such report and statements to the Council and to the Minister.

(3) The report shall be laid before both Houses of Parliament.

40. (1) The statements of accounts so prepared shall be Audit. audited and reported upon by the Auditor-General, who shall have in respect to the accounts of the Board all the powers conferred on the Auditor-General by any law now or hereafter to be in force relating to the audit of the public accounts, as well as all powers conferred by this Act.

(2) The Auditor-General shall report to the Board and the Minister—

(a) whether or not in his opinion—

- (i) due provision has been made for the repayment of loans; and
- (ii) the value of assets has (so far as he can judge) been in all cases fairly stated; and
- (iii) due diligence and care have been shown in the collection and banking of income; and
- (iv) the expenditure incurred has been duly authorised, vouched and supervised; and
- (v) proper account has been kept of plant, stores, and materials; and

(vi)

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(vi) any of the moneys or other property of the Board have been misappropriated or improperly or irregularly dealt with; and

(b) as to any other matters which in his judgment call for special notice or which are prescribed.

(3) Towards defraying the cost and expenses of the audit by the Auditor-General the Board shall, at such periods as the Minister may direct, pay to the Treasurer for credit of the Consolidated Revenue Fund, the amount involved, as certified to by the Auditor-General.

Priority
of Crown.

41. Any sums of money hereafter due and payable by the Board to the Treasurer shall be charged upon the assets and revenues of the Board in priority to any debenture, inscribed stock, overdraft, lien or incumbrance of any nature whatsoever.

Municipal
rates.

42. Any Crown lands or lands vested in the Board and any tunnel or water main of the Board shall be exempt from any rate or rental charge which but for this section a council might have levied or imposed thereon; but nothing herein contained shall preclude a council from levying and collecting rates upon any land vested in or acquired by the Board and occupied by it or upon Crown lands occupied by it.

Sale and
lease of
property.

43. (1) The Board may sell any of its personal property and may, with the approval of the Governor, sell or exchange any land vested in it.

(2) The Board may lease any land or building or other real or personal property vested in or belonging to it.

No lease for any period in excess of five years shall be entered into unless the Governor's approval shall have been first obtained.

(3) The Board may let for hire any of its plant or material not immediately required for the purposes of the Board.

44. The Board may insure any property of or under the **No. 44, 1963** control and management of the Board, and for the purpose [—] **Insurance.** of any such insurance shall be deemed to have an insurable interest in the subject matter thereof.

45. The Governor may make regulations not inconsistent **Regulations.** with this Act for and with respect to the following matters :—

- (a) any of the powers, authorities, duties or functions conferred or imposed on the Governor, the Minister or the Board by this Act;
- (b) the methods in which payments of the Board are to be made;
- (c) the protection of the property of the Board from damage and trespass, and the water supply from pollution;
- (d) prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

46. A regulation may—

**Penalties,
directions,
fees, &c.**

- (a) impose a penalty for any breach thereof and also distinct penalties in case of successive breaches thereof, but no such penalty shall exceed fifty pounds;
- (b) impose also a daily penalty for any continuing breach thereof not exceeding five pounds per day;
- (c) provide that in addition to a penalty any expense incurred by the Board in consequence of a breach of the regulations or in the execution of work directed by the regulation to be executed by any person and not executed by him shall be paid by the person committing such breach or failing to execute such work;

(d)

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- (d) require any work or thing to be executed or done of such materials, within such time or in such manner as is directed or approved in any particular case by the Board or any person duly authorised, and require works to be executed only by qualified or licensed persons;
- (e) provide for the payment of fees for inspections and for services rendered by the Board.

**Publication,
&c.****47.** (1) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified therein; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

(2) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after any such regulation has been laid before such House disallowing the regulation or any part thereof, such regulation or part shall thereupon cease to have effect.

**Legal
proceed-
ings.**

48. (1) Any information, complaint, or other legal proceeding under this Act, or any regulation made thereunder, may be laid, made, and taken in the name of the Cobar Water Board by any officer of the Board duly authorised in that behalf.

(2) The officer shall out of the funds of the Board be reimbursed all damages, costs, charges and expenses to which he is put or with which he becomes chargeable by reason of anything contained in subsection one of this section.

**Notice of
action.**

(3) A writ or other process shall not be sued out or served upon the Board or any member thereof or any officer of the Board or any person acting in his aid for anything done

or

or intended to be done or omitted to be done under the provisions of this Act until the expiration of one month after notice in writing has been served on the Board or such member, officer or person clearly stating the cause of action and the name and place of abode of the intended plaintiff and of his solicitor or agent in the case and on trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action that is not stated in the notice served; and unless such notice is served a verdict shall be found for the defendant.

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49. (1) Every penalty imposed upon any person by this Act or by any regulation made under the provisions of this Act shall be without prejudice to the right of the Board to recover from such person—

- (a) any sum for damage sustained through his act or default;
- (b) the cost and expense incurred by the Board in remedying such damage;
- (c) the value of any water wasted, misused, unduly consumed, illegally diverted or illegally taken by him.

Recovery
of penalty
does not
prejudice
right to
take other
proceedings.

The payment of any such penalty shall not bar or affect the right of the Board to bring any other action or take any other proceeding against such person.

(2) Any penalty, fine, or forfeiture recovered under this Act or the regulations shall be paid to the Board.

50. (1) If any person—

not having from the Board a supply of water for specified purposes uses for any of such specified purposes any water supplied to him by the Board;

Penalty
for mis-
application
of water.

having from the Board a supply of water for any specified purposes uses for any purpose other than those for which he is entitled to use the same any water supplied to him by the Board,

then and in any such case he shall for such offence be liable to a penalty not exceeding five pounds.

(2)

(2) The Board may also recover the value of the water so misused.

Bathing or
washing or
throwing
dirt and
filth into
waterworks.

51. Every person who commits any of the following offences with respect to any stream or watercourse, reservoir, aqueduct, or other waterworks in any catchment district or belonging to or under the control and management of the Board shall for every such offence be liable to a penalty not exceeding five pounds : —

Bathes therein.

Washes, throws, or causes to enter therein any dog or other animal.

Throws, conveys, or causes or permits to be thrown or conveyed therein any refuse, rubbish, dirt, filth, or noisome thing whatsoever.

Washes or cleanses therein the skin of any animal or any clothes, cloth, wool, leather, or other thing whatsoever.

**Penalty for
letting foul
water flow
thereinto.**

52. If any person causes the water of any sink, sewer, drain, or any engine or boiler, or any other filthy water belonging to him or under his control to run or be brought into any stream or watercourse, reservoir, aqueduct, or other waterworks in any catchment district or belonging to or under the control and management of the Board, or does any other act whereby the water of the Board is fouled, he shall for such offence be liable to a penalty not exceeding five pounds and a further penalty not exceeding five pounds for each day (if more than one) that such offence continues.

**Penalty
for
obstructing
construction
of works.**

53. Any person who wilfully obstructs any person acting under the direction of the Minister or of the Board in setting out any works undertaken in pursuance of this Act, or pulls or removes any poles or stakes driven into the ground for the purpose of setting out such works, or defaces or destroys any marks made for the same purpose, shall be guilty of an offence and liable to a penalty not exceeding five pounds.

54. Any person who opens any ground so as to uncover No. 44, 1963 or expose any pipes or other works or fittings belonging to or under the control and management of the Board without being lawfully entitled so to do and without having given to the Board two days notice in writing of his intention so to do, or who wilfully or negligently breaks or injures or opens any pipes or other works or fittings as aforesaid, shall be guilty of an offence and liable to a penalty not exceeding five pounds. Penalty for tampering with works.

55. (1) Any person who wrongfully takes or uses water from any reservoir, aqueduct or pipe belonging to or under the control and management of the Board, or from any pipe leading to or from any such reservoir, aqueduct or pipe, or from any cistern or other like place belonging to or under the control and management of the Board or supplied by it with water for the use of any consumer, shall be guilty of an offence and liable to a penalty not exceeding five pounds. Penalty for unlawfully taking water.

(2) Any person who illegally diverts or takes water supplying or flowing into any waterworks, watercourse or reservoir belonging to or under the management and control of the Board, or who does any unlawful act whereby the water from any such waterworks, watercourse or reservoir may be drawn off or diminished in quantity, shall be liable to a penalty not exceeding five pounds for every day during the whole or any part of which the said supply of water is diverted or diminished by reason of any act done by or by the direction of such person. Penalty for illegally taking or diverting water.

56. Whenever it is shown that any water is or has been so wrongfully taken or used or illegally diverted or taken to or into land owned or occupied by any person, the taking or using or diversion of such water shall be deemed to have been effected by or by the direction of such person unless such person satisfies the court that such taking or using or diversion of the water on to or into such land was effected without his direction or connivance. When water diverted to any land onus of proof of non-compliment lies on owner or occupier of land.

57. All proceedings for offences against this Act or the Offences. regulations shall be disposed of summarily before a stipendiary magistrate or two justices in petty sessions.

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—
Settlement
of disputes
between the
Board and
other public
authorities.

58. (1) When a dispute arises between the Board and another public authority either may refer the dispute to the Minister for settlement by the Governor.

(2) The Minister may appoint any person a commissioner to hold an enquiry and to report to him as to any matter arising in or relating to the dispute.

(3) The provisions of the Royal Commissions Acts, 1923-1934, other than those of Division 2 of Part II of that Act, and the provisions of section one hundred and fifty-two of the Justices Act, 1902, as amended by subsequent Acts, shall mutatis mutandis apply to any commissioner appointed under this section.

(4) The Governor may make such order in the public interest and in the circumstances of the case as may seem to be just and equitable. Any such order shall be final and conclusive and shall be given effect to by the Board and by the public authority.

(5) This section shall apply to the exclusion of section six hundred and fifty-four of the Local Government Act, 1919, as amended by subsequent Acts.

Sec. 12.**SCHEDELE.****WATER WORKS.**

1. A 12 inch rising main from Nyngan to Fort Bourke Hill near Cobar and associated works including intake works and pumping station at Nyngan; balance tank and pumping station west of Hermidaile; balance tank at Boppy Mountain, and raw water reservoir at Fort Bourke Hill.

2. Composite 10 inch and 12 inch main from Fort Bourke Hill to Cobar Storage Dam and appurtenant works.

3. Pumping station and associated works in the Cobar Storage Dam.

4. Composite rising main from Cobar Storage Dam to a service reservoir at the C.S.A. mine at Cobar.

5. Service reservoir at C.S.A. mine at Cobar.

The whole to be subject to such deviations and modifications as may be deemed desirable by the Constructing Authority.

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