

No. , 1969.

A BILL

To make provisions with respect to the prevention or the reduction of pollution of certain waters; and for purposes connected therewith.

[MR JAGO—27 March, 1969.]

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.

1. (1) This Act may be cited as the "Water Pollution Act, 1969".

65621 263—A

(2)

Short title
and com-
mencement.

Water Pollution.

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

2. This Act is divided into Parts, as follows :—

Division
of Act.

5 PART I.—PRELIMINARY—ss. 1–6.

PART II.—WATER POLLUTION ADVISORY COMMITTEE
AND CLASSIFICATION OF WATERS APPEALS BOARD—
ss. 7–11.

PART III.—CLASSIFICATION OF WATERS—ss. 12–16.

10 PART IV.—CONTROL OF POLLUTION OF WATERS—
ss. 17–28.

PART V.—GENERAL—ss. 29–37.

3. This Act binds the Crown.

Act binds
Crown.

15 4. (1) Subject to subsection two of this section, nothing in this Act affects any of the provisions of the Maritime Services Act, 1935, as subsequently amended, the Sydney Harbour Trust Act, 1900, as subsequently amended, the Inflammable Liquid Act, 1915, as subsequently amended, the Local Government Act, 1919, as subsequently amended, the
20 Prevention of Oil Pollution of Navigable Waters Act, 1960, as subsequently amended, or any other Act, or any regulations, ordinances or by-laws thereunder or takes away any powers vested in any person or body by any of those Acts, regulations, ordinances or by-laws.

Effect of
this Act on
other Acts.

25 (2) Where the provisions of this Act or any regulation thereunder are inconsistent with any of the provisions of any other Act or any regulation, ordinance or by-law made under any other Act (other than the Prevention of Oil Pollution of Navigable Waters Act, 1960, as subsequently amended,
30 or any regulation thereunder), the provisions of this Act or of the regulations thereunder shall prevail.

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5. In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Interpre-
tation.

5 “authorised officer” means a person authorised in writing by the Under Secretary either generally or in a special case to act as an authorised officer for the purposes of section thirty of this Act;

“Board” means the Classification of Waters Appeals Board constituted under section ten of this Act;

10 “classified waters” means any waters classified by the Under Secretary under section twelve of this Act;

“Committee” means the Water Pollution Advisory Committee constituted under section seven of this Act;

“Department” means the Department of Public Health;

15 “fish” has the meaning ascribed thereto in the Fisheries and Oyster Farms Act, 1935, as subsequently amended;

“licence” means a valid and unexpired licence issued under this Act, whether it is an original or a renewed licence;

20 “local authority” has the meaning ascribed thereto in the Public Health Act, 1902, as subsequently amended;

25 “occupier”, in relation to any premises, means the person in occupation or control of the premises and, in relation to any premises where different parts are occupied by different persons, means, in relation to any such part, the person in occupation or control of that part;

“pollute”, in relation to any waters, means—

30 (a) to place in or on the waters or any part thereof any matter, whether solid, liquid or gaseous, so that the physical, chemical or biological condition of the waters or any part thereof is changed; or

(b)

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(b) to place in or on the waters or any part thereof any refuse, litter, debris or other matter, whether solid or liquid or gaseous,

5 so that the change in the condition of the waters or the refuse, litter, debris or other matter, either alone or together with any other refuse, litter, debris or matter present in the waters makes, or is likely to make, the waters or any part thereof unclean, noxious, poisonous or impure, detrimental to the
10 health, safety, welfare or property of persons, undrinkable for farm animals, poisonous or harmful to aquatic life, animals, birds or fish in or around the waters or part or unsuitable for use in irrigation, or obstructs or interferes with, or is likely to
15 obstruct or interfere with persons in the exercise or enjoyment of any right in relation to the waters or part; or

(c) to place in or on any waters any matter, whether solid, liquid or gaseous, that is
20 of a prescribed nature, description or class or that does not comply with any standard prescribed in respect of that matter,

and "pollutant" and "pollution" have corresponding interpretations;

25 "premises" includes place, ship, boat and any other vessel whatsoever;

"prescribed" means prescribed by this Act or by the regulations;

"regulations" means regulations made under this Act;

30 "statutory authority" means the Broken Hill Water Board, the Electricity Authority of New South Wales, the Electricity Commission of New South Wales,

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5 Wales, the Hunter District Water Board, the Maritime Services Board of New South Wales, the Metropolitan Meat Industry Board, the Metropolitan Water Sewerage and Drainage Board, the Water Conservation and Irrigation Commission and any person deemed by the Transport (Division of Functions) Act, 1932, as subsequently amended, to be a statutory body representing the Crown and any statutory body declared by the Governor, by 10 proclamation published in the Gazette, to be a statutory authority for the purposes of this Act;

15 “Under Secretary” means the Under Secretary of the Department and, where an officer of the Department has been authorised in writing by the Under Secretary to exercise or perform any of the powers, authorities, duties or functions of the Under Secretary under this Act or the regulations either generally or in a particular case, includes, in relation 20 to the exercise or performance of any such powers, authorities, duties or functions either generally or in that particular case, as the case may be, that officer;

25 “wastes” means any solid, gas or liquid, with or without matter in suspension or solution therein, which is or may be discharged from premises in the course of any process or operation carried on in connection with any mine (within the meaning of the Mines Inspection Act, 1901, as subsequently amended, or the Coal Mines Regulation Act, 1912, as subsequently amended), open cut working (within the meaning of the Coal Mines Regulation Act, 1912, as subsequently amended), coal washing, trade, 30 industry, agriculture or sewage treatment or in the course of any domestic process or operation;

35 “waters” means any river, stream, lake, lagoon, natural or artificial watercourse, dam or tidal waters and includes any underground or artesian water.

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6. This Act shall be read and construed as operating to the full extent of, but so as not to exceed, the legislative powers of the State, to the intent that where any provision of this Act, or the application of any such provision to any person, subject-matter or circumstance, would, but for this section, have been construed as being in excess of those powers, it shall be a valid provision to the extent to which it is not in excess of those powers, and the remainder of this Act and the application of the provision to other persons, subject-matters or circumstances shall not be affected.

Plenary construction of this Act.

PART II.

WATER POLLUTION ADVISORY COMMITTEE AND
CLASSIFICATION OF WATERS APPEALS BOARD.

7. (1) For the purposes of this Act there shall be constituted a Water Pollution Advisory Committee which shall consist of twelve members.

Water Pollution Advisory Committee.

(2) The members of the Committee shall be—

(a) the person for the time being holding office as or duly acting in the office of Director-General of Public Health, or a person from time to time nominated by him; and

(b) eleven members appointed by the Governor (in this section referred to as "appointed members") of whom—

(i) one shall be an officer of the Department of Public Works nominated by the Minister for Public Works;

(ii) one shall be an officer of the Chief Secretary's Department nominated by the Chief Secretary;

(iii)

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- (iii) one shall be a representative of the Water Conservation and Irrigation Commission nominated by the Minister for Conservation;
- 5 (iv) one shall be a representative of the Maritime Services Board of New South Wales nominated by the Treasurer;
- (v) one shall be a representative of the Metropolitan Water Sewerage and Drainage Board nominated by that Board;
- 10 (vi) one shall be a representative of the Local Government Association of New South Wales nominated by that Association;
- (vii) one shall be a representative of the Shires Association of New South Wales nominated by that Association; and
- 15 (viii) four shall be nominated by the Minister, of whom one shall be appointed to represent primary industry and one secondary industry and two shall be persons with such technical qualifications as the Minister considers appropriate.
- 20

(3) (a) The member referred to in paragraph (a) of subsection two of this section shall be chairman of the 25 Committee.

(b) The chairman shall preside at all meetings of the Committee at which he is present and in the absence of the chairman from any meeting the members present shall appoint one of their number to preside at that meeting.

30 (4) The appointed members shall hold office for a period of three years and shall be eligible for reappointment.

(5)

Water Pollution.

(5) If a casual vacancy occurs in the office of an appointed member, the Governor may appoint a person having the like qualification or being representative of the like interest as his predecessor to hold office as a member
5 of the Committee for the balance of his predecessor's term of office.

(6) An appointment to fill a casual vacancy shall be made on the nomination of the person or body by whom the nomination of the person whose office has been vacated was
10 made.

(7) Any nomination of an appointed member shall be made within the time and in the manner prescribed and in default of any person or body entitled to make any such nomination doing so within that time and in that manner the
15 Governor may appoint any person to the Committee as if that person had been duly nominated by the person or body entitled to make the nomination.

8. (1) The Committee may establish sub-committees for the purpose of advising the Committee upon such matters
20 within the scope of the Committee's functions as may be referred to the sub-committees by the Committee. Sub-committees.

(2) A person may be appointed to a sub-committee whether or not he is a member of the Committee.

(3) A sub-committee may exercise and discharge such
25 of the Committee's powers, authorities, duties and functions as may be delegated to it by the Committee.

(4) Notwithstanding any such delegation, the Committee may continue to exercise and discharge any of the powers, authorities, duties and functions so delegated.

30 (5) The Committee may at any time revoke any such delegation, either wholly or in part.

(6)

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(6) Every member of a sub-committee shall be entitled to receive such travelling expenses and, if the Minister so approves, such fees for attending meetings and transacting business of the sub-committee, and making inspections for 5 the purposes of this Act, as may be prescribed.

(7) The office of a member of a sub-committee shall not, by reason of the member accepting or receiving any fees or expenses to which he is entitled under subsection six of this section, be deemed to be an office of profit under the 10 Crown for the purposes of the Constitution Act, 1902, or any Act amending that Act.

9. (1) The Committee may initiate and refer to the Minister— Functions of Committee.

- 15 (a) recommendations for making, altering or repealing any regulation;
- (b) recommendations relating to the administration of this Act;
- (c) recommendations for the prevention, control, abatement or mitigation of pollution.

20 (2) It shall be the duty of the Committee to make recommendations to the Under Secretary in respect of matters referred to it by the Under Secretary and to consider and advise the Minister upon such matters and questions as the Minister may from time to time refer to it relating to—

- 25 (a) any proposal for making, altering or repealing any regulation;
- (b) the administration of this Act;
- (c) the prevention, control, abatement or mitigation of pollution.

30 (3) The Committee shall, not later than the thirtieth day of September in each year, forward to the Minister a report of its work and activities during the year ended the thirtieth day of June then last past.

(4) A copy of the report shall be laid before both 35 Houses of Parliament.

Water Pollution.

10. (1) For the purposes of this Act there shall be constituted a Classification of Waters Appeals Board which shall consist of five members.

Classification of Waters Appeals Board.

(2) One of the members of the Board shall, by the instrument of his appointment be appointed as chairman of the Board and another of the members shall, by the instrument of his appointment be appointed as deputy chairman of the Board.

(3) The members of the Board shall be appointed by the Governor, shall hold office for four years and shall be eligible for reappointment.

(4) If a casual vacancy occurs in the office of a member of the Board, the Governor may appoint a person to hold office as a member of the Board for the balance of his predecessor's term of office.

(5) The chairman shall preside at all meetings of the Board at which he is present and in the absence of the chairman from any meeting of the Board the deputy chairman shall preside.

11. (1) In this section "body constituted under this Part" means the Committee or the Board.

Provisions applicable to the Committee and the Board.

(2) The procedure for the calling of meetings of a body constituted under this Part and for the conduct of business at those meetings shall, subject to the regulations, be as determined by that body.

(3) The number of members who shall constitute a quorum of a body constituted under this Part shall be as prescribed and the decision of the majority of members present at any meeting at which a quorum is present shall be the decision of that body.

(4) The person entitled to preside at any meeting of a body constituted under this Part shall have a deliberative vote and, in the event of an equality of votes, a casting vote.

(5)

Water Pollution.

(5) A member of a body constituted under this Part shall be deemed to have vacated his office if he—

- (a) dies;
- 5 (b) resigns his office by writing under his hand addressed to the Governor;
- (c) becomes a mentally ill person, a protected person, or an incapable person, within the meaning of the Mental Health Act, 1958, as subsequently amended;
- 10 (d) absents himself from four consecutive meetings of the body of which reasonable notice has been given to him either personally or in the ordinary course of post except on leave granted by the Minister before the last of those meetings; or
- 15 (e) is removed from office by the Governor.

(6) Without limiting the operation of subsection five of this section a member of a body constituted under this Part shall be deemed to have vacated his office upon his attaining the age of seventy years.

- 20 (7) Every member of a body constituted under this Part shall be entitled to receive such travelling expenses, and every such member (other than the member referred to in paragraph (a) of subsection two of section seven of this Act) shall, if the terms of his appointment so provide, be entitled
- 25 to receive such fees for attending meetings and transacting business of the body and, in the case of a member of the Committee, such fees for making inspections for the purposes of this Act, as may be prescribed.

- 30 (8) The office of a member (other than the member referred to in paragraph (a) of subsection two of section seven of this Act) shall not, by reason of the member accepting or receiving any fees or expenses to which he is entitled under subsection seven of this section, be deemed to be an office of profit under the Crown for the purposes of the
- 35 Constitution Act, 1902, or any Act amending that Act.

(9)

Water Pollution.

(9) The provisions of the Public Service Act, 1902, as subsequently amended, shall not apply to or in respect of the appointment of any member of a body constituted under this Part, and any such member shall not, in his capacity as
5 such a member, be subject to the provisions of that Act during his term of office.

(10) No act or proceeding of a body constituted under this Part shall be invalidated or prejudiced by reason only of the fact that at the time the act or proceeding was
10 done, taken or commenced, there was a vacancy in the office of any member of the body.

(11) All acts and proceedings of a body constituted under this Part shall, notwithstanding the subsequent discovery of any defect in the appointment of any member thereof, or
15 that any member was disqualified to act, be as valid as if the member had been duly appointed and was qualified to act and had acted as a member of the body, and as if the body had been properly and fully constituted.

PART III.

CLASSIFICATION OF WATERS.

20

12. (1) Subject to this Part, the Under Secretary may, Under Secretary may classify waters. by notification published in the Gazette, classify or reclassify any waters by reference to any prescribed classification.

(2) The Under Secretary shall not cause a notification under subsection one of this section classifying any waters
25 to be published in the Gazette—

(a) where no objection to the proposal to classify the waters as referred to in a notice published under section thirteen of this Act is made within the
30 prescribed time referred to in subsection one of section fourteen of this Act—until after the expiration of that prescribed time; or

(b) where an objection to such a proposal is so made—until the objection has been finally determined.

(3)

Water Pollution.

(3) The regulations prescribing any classification for the purposes of subsection one of this section shall specify, in relation to waters of that classification, a standard applicable to waters of that classification.

5 **13.** Not less than one month before the publication of a ^{Proposal} notification under section twelve of this Act classifying any ^{for} waters, the Under Secretary shall cause a notice describing ^{waters to be} generally the waters and specifying the classification he ^{published.} proposes to assign to them to be published in the Gazette and in
10 a newspaper circulating in such area as the Under Secretary considers appropriate having regard to the situation of the waters.

14. (1) Any person may, in the prescribed manner, ^{Objections} within the prescribed time after publication of the notices ^{to classifica-} or the later of the notices published under section thirteen ^{tion of} of this Act and on payment of the prescribed fee, object to ^{waters.} the classification proposed to be assigned to any waters as referred to in the notice or notices.

(2) Any such objection shall be lodged with the
20 Under Secretary who shall forward it to the Board.

15. (1) Where an objection is made to a classification ^{Determina-} proposed to be assigned to any waters as referred to in a ^{tion of} notice under section thirteen of this Act, the Board shall hear ^{objections} and determine the objection and shall either— ^{by the}
^{Board.}

- 25 (a) confirm the proposed classification; or
(b) direct that some other prescribed classification be assigned to the waters.

(2) Proceedings before the Board shall be in the nature of a rehearing.

30 (3) A determination of the Board under subsection one of this section shall be final and shall be given effect to by the Under Secretary, but nothing in this subsection prevents the Under Secretary, where he considers the circumstances so warrant, from reclassifying any waters in respect of which the Board has made such a determination.

Water Pollution.

16. (1) The Board may by notice in writing served on any person require that person— Proceedings of Board.

(a) to attend before it for the purpose of giving evidence; or

5 (b) to produce to the Board any documents, relating to any proceedings before the Board.

(2) A person who refuses or fails to comply with the requirement of a notice under subsection one of this section is guilty of an offence against this Act and liable to a 10 penalty not exceeding two hundred dollars.

PART IV.

CONTROL OF POLLUTION OF WATERS.

17. (1) A person shall not pollute any waters or knowingly cause or permit any waters to be polluted. Prohibition of pollution of waters.

15 (2) Without limiting the generality of subsection one of this section, a person contravenes that subsection if—

20 (a) he places any matter, whether solid, liquid or gaseous, in a position where it falls, descends, is washed, is blown or percolates, or is likely to fall, descend, be washed, be blown or percolate, into any waters, or onto the bed of any waters, when dry, or knowingly causes or permits any such matter to be placed in such a position; or

25 (b) he places any such matter on the bed, when dry, of any waters, or knowingly causes or permits any such matter to be placed on such a bed,

and the matter would, had it been placed in any waters have polluted or have been likely to pollute those waters.

(3)

Water Pollution.

(3) Notwithstanding the foregoing provisions of this section, it shall not be an offence against this Act arising under those provisions for any person to pollute any waters, during a period of two years from the commencement of this Act or
5 during such further period as may be prescribed, either generally or in respect of specified waters or pollution from any specified premises or classes of premises, by means of any wastes of substantially the same nature and volume as wastes by means of which those waters are being polluted by him
10 at the commencement of this Act.

(4) Notwithstanding the foregoing provisions of this section it shall not be an offence against this Act arising under those provisions for a person to pollute any waters if he holds a licence and does not pollute the waters in contravention
15 of any of the conditions of the licence.

(5) Any person who contravenes the provisions of this section or, being the holder of a licence, contravenes any condition in force and attaching to the licence is guilty of an offence against this Act and is liable to a penalty not exceeding
20 two thousand dollars and to a further penalty not exceeding one thousand dollars for each day the offence continues.

18. (1) A person in whom is vested, or who has the care, control or management of, or who is the occupier of
any land on which is situated, a drain, whether open or not
25 shall, if the drain discharges or is likely to be used for discharging any pollutants into any classified waters, be guilty of an offence against this Act unless a licence is in force in respect of the drain.

Licences
in respect
of certain
drains.

(2) Without limiting the generality of subsection one
30 of this section, a drain shall, for the purposes of that subsection, be deemed to discharge or to be likely to be used for discharging pollutants into any classified waters if—

(a) it discharges or is likely to be used for discharging
any matter, whether solid, liquid or gaseous, into or
35 onto any place from which the matter falls,
descends,

Water Pollution.

descends, is washed, is blown or percolates or is likely to fall, descend, be washed, be blown or percolate into any classified waters or onto the bed of any classified waters, when dry; or

- 5 (b) it discharges or is likely to be used for discharging any matter into or onto the bed, when dry, of any classified waters,

and the matter would, had it been discharged into any classified waters, have polluted or have been likely to pollute
10 those waters.

(3) Nothing in this section applies to or in respect of any drain from which any pollutants are discharged, or which is likely to be used for discharging any pollutants, into any other drain with the consent of the person in whom the other
15 drain is vested, or who has the care, control or management of the other drain, or who is the occupier of the land on which the other drain is situated, or into any other drain in respect of which a licence is held by the person in whom the firstmentioned drain is vested, or who has the care, control
20 or management of the firstmentioned drain, or who is the occupier of the land on which the firstmentioned drain is situated.

(4) In this section, "drain" means any drain, line of pipes, sewer, stormwater channel or artificial watercourse.

- 25 (5) Any person guilty of an offence against this Act arising under this section is liable to a penalty not exceeding two thousand dollars and to a further penalty not exceeding one thousand dollars for each day the offence continues.

19. Notwithstanding any provision of section seventeen
30 or eighteen of this Act, where a person becomes the occupier of any premises and immediately before he became the occupier of the premises the premises were occupied by a person who was the holder of a licence, that firstmentioned
person

Postpone-
ment of
operation
of sections
17 and 18.

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person is not guilty of an offence against this Act arising under any such provision if, had he been the holder of the licence, he would not have been guilty of the offence and—

- 5 (a) if the offence occurred during the prescribed period after he became the occupier of the premises; or
- 10 (b) if he has, during that prescribed period, made application under subsection eight of section twenty-one of this Act for the transfer to him of the licence and the offence occurred during the period commencing on the day on which he became the occupier of the premises and ending on the day on which the application is finally determined.

20 **20.** (1) A person shall not install, construct or modify any apparatus, equipment or works for the discharge of pollutants into any waters, except in accordance with an approval in writing given by the Under Secretary.

Under Secretary's approval to installation or construction of certain apparatus, etc., required.

(2) An application for an approval under subsection one of this section shall be made to the Under Secretary in the prescribed manner and shall be accompanied by the prescribed fee.

(3) An approval under subsection one of this section may be unconditional or subject to such conditions as may be specified in the approval.

25 (4) Any person who contravenes the provisions of subsection one of this section or of any conditions attached to an approval given under that subsection is guilty of an offence against this Act and is liable to a penalty not exceeding two thousand dollars.

30 **21.** (1) An application for a licence or transfer thereof shall be made to the Under Secretary in or to the effect of the prescribed form and shall be accompanied by the prescribed fee.

Licences.

Water Pollution.

(2) The Under Secretary—

(a) may grant any application for a licence or transfer thereof, either subject to conditions or unconditionally; or

5 (b) may refuse any such application.

(3) A licence specifying a drain (as defined in subsection four of section eighteen of this Act) from which pollutants may be discharged into any waters shall, if the waters are classified waters, be deemed, for the purposes of
10 that section, to be a licence in respect of that drain.

(4) The Under Secretary may during the currency of a licence, by a notice in writing served on the holder of the licence—

15 (a) revoke the licence or suspend it for such period expiring not later than the date of expiry of the licence as he thinks fit;

(b) revoke or vary any condition attached to the licence; or

(c) attach new conditions to the licence.

20 (5) Before imposing any conditions under paragraph (a) of subsection two, or exercising any powers under subsection four of this section, the Under Secretary shall refer his proposal to do so to the Committee and, in imposing any such conditions or exercising any such powers, shall have
25 regard to any recommendation with respect thereto made by the Committee.

(6) In exercising his powers under subsection two or four of this section the Under Secretary shall have regard to the extent of the pollution of any waters likely to be caused
30 by the applicant, if his application is granted, or being caused by the licensee, as the case may be, and where the application or licence is in respect of pollution of classified waters, to the classification of those classified waters.

(7)

Water Pollution.

(7) The revocation or suspension of a licence, the revocation or variation of any condition attached to a licence or the attaching of a new condition to a licence, under subsection four of this section shall not have any force until the 5 time limited for appealing against the Under Secretary's decision has expired and, where an appeal against the decision has been made under this Act, until the court hearing the appeal confirms the decision.

(8) A person, with the consent of the holder of a 10 licence, may make application in or to the effect of the prescribed form, accompanied by the prescribed fee, to the Under Secretary for approval of the transfer to him of the licence held by that holder.

22. A licence shall remain in force for a period of one 15 year from the date of its issue and may from time to time be renewed for a period of one year upon application made within the prescribed time. Duration of licences.

23. The Under Secretary may, by notice in writing served 20 on an applicant for an approval under section twenty of this Act or for a licence, require the applicant to furnish to the Under Secretary such information and such plans and specifications as the Under Secretary considers necessary and relevant to the application and specifies in the notice. Under Secretary may require applicant to furnish information, etc.

24. The Under Secretary shall cause to be kept such 25 registers of licences as may be prescribed. Registers of licences.

25. (1) The fee payable for a licence or for an approval 30 under section twenty of this Act shall be such amount as may be prescribed, not exceeding one thousand dollars. Fees.

(2) Different fees for licences or any such approval 30 may be prescribed according to any prescribed factors.

(3) The fee payable in respect of the transfer of a licence shall be as prescribed.

26.

Water Pollution.

26. (1) Any applicant for, or holder of, a licence who Appeals.
is aggrieved by any decision of the Under Secretary under
subsection two or four of section twenty-one of this Act in
relation to the application or licence, and any applicant for
5 an approval under subsection one of section twenty or sub-
section eight of section twenty-one of this Act who is aggrieved
by any decision of the Under Secretary in relation to his
application may appeal against that decision to the District
Court exercising jurisdiction—

- 10 (a) in the district in which the applicant or holder
resides or has a place of business; or
- (b) where the applicant or holder does not reside or
have a place of business in the district of a District
Court, in the district nearest to which the waters
15 to which the application or licence relates are
situated.

(2) Any such appeal shall be in the nature of a
rehearing and shall be made in accordance with rules of
court.

20 (3) The decision of the Court in respect of any such
appeal shall be final and shall be given effect to by the Under
Secretary.

27. (1) The Minister may, in circumstances that he Minister's
considers to be an emergency, by instrument in writing served emergency
25 on any person— powers.

- (a) authorise that person, subject to such conditions as
may be specified in the instrument, to discharge
into any waters any pollutants or any specified class
of pollutants; or
- 30 (b) order that person not to discharge into any waters,
whether or not they are classified waters and whether
or not that person is the holder of a licence, any
pollutants or any specified class of pollutants or not
to discharge into any such waters any pollutants or
35 any specified class of pollutants otherwise than
in accordance with any conditions specified in the
instrument. (2)

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(2) A person who—

- 5 (a) discharges any pollutants or any specified class of pollutants into any waters, if he is authorised to do so by an instrument under subsection one of this section and does so in accordance with any conditions specified in the instrument, is, notwithstanding any other provision of this Act, not guilty of an offence against this Act arising under section seven-
10 teen or eighteen of this Act by reason of that discharge; or
- 15 (b) discharges any pollutants or any specified class of pollutants into any waters in contravention of an order referred to in paragraph (b) of subsection one of this section that has been served on him, is, notwithstanding any other provision of this Act, guilty of an offence against this Act and is liable to a penalty not exceeding two thousand dollars and to a further penalty not exceeding one thousand dollars for each day the offence continues.

20 **28.** (1) Where any waters, whether or not they are classified waters, are polluted by any person, any statutory authority or local authority may and shall, if directed to do so by the Under Secretary, take such action as is necessary to remove, disperse, destroy or mitigate the pollution and
25 may recover all costs and expenses incurred by it in connection with the removal, dispersal, destruction or mitigation of the pollution from that person.

Removal of pollutants.

(2) Any such costs and expenses may be recovered as a debt in a court of competent jurisdiction.

PART

Water Pollution.

PART V.

GENERAL.

29. (1) The Under Secretary may, by notice in writing served on the occupier of any premises, require that occupier to furnish to him within fourteen days or such longer period as may be specified in the notice, such information as to any manufacturing, industrial or trade process carried on in or on the premises or as to any wastes discharged or likely to be discharged therefrom as he requires by the notice.

Occupier of premises may be required to furnish information.

10 (2) A person who neglects or fails to comply with any requirement made under this section is guilty of an offence against this Act and liable to a penalty not exceeding five hundred dollars.

15 (3) Any information furnished or statement made to the Under Secretary pursuant to any requirement made under subsection one of this section shall not, if the person furnishing the information or making the statement objected, at the time of furnishing or making it, to doing so on the ground that it might tend to incriminate him, be admissible in evidence in any prosecution against that person for any offence, not being the offence of neglecting or failing to comply with any requirement made under this section.

30. (1) An authorised officer may enter—

Powers of authorised officers.

25 (a) any premises used as a factory or any premises in which an industry or trade is being carried on, at any time during which any manufacturing, industrial or trade process is being carried on therein, and

(b) any other premises, at any reasonable time,

30 and may therein—

(i) examine and inspect any apparatus, equipment or works used for or in connection with the discharge of wastes into waters;

35 (ii) take and remove samples of any wastes that are being, or are likely to be, or of a kind that are usually, discharged from the premises into waters;

(iii)

Water Pollution.

5 (iii) take and remove such samples and make such examination and inquiry and such tests as he considers necessary to ascertain whether provisions of this Act or of any requirement made under or pursuant to this Act or the conditions in force and attached to any licence or approval are being or have been complied with; and

10 (iv) take such photographs as he considers necessary in connection with the administration of this Act or the regulations.

(2) An authorised officer may, by notice in writing, require—

15 (a) the occupier of any premises from which pollutants are being or are usually discharged into any waters to produce to that authorised officer any reports, books, plans, maps or documents relating to the discharge from the premises of pollutants into the waters or relating to any manufacturing, industrial or trade process carried on on those premises; or

20 (b) any local authority or statutory authority to produce to that authorised officer any reports, books, plans, maps or documents in the custody or possession of the local authority or statutory authority relating to any apparatus, equipment or works used
25 for the discharge of pollutants directly or indirectly into waters,

and may take copies of any such reports, books, plans, maps or documents.

30 (3) Every authorised officer shall be provided with a certificate of his appointment, and on applying for admission to any premises or place where he is empowered by this Act to enter, shall, if requested to do so, produce the certificate to the occupier of the premises.

(4)

Water Pollution.

(4) Notwithstanding the provisions of subsection one of this section, an authorised officer is not entitled to enter a private dwelling-house, or the land used in connection therewith, unless he has reasonable grounds for believing that
5 pollutants are, have been or are likely to be, discharged from those premises into any waters.

(5) Any person who wilfully delays or obstructs an authorised officer, or fails to comply with any requirement made by an authorised officer, in the exercise of his powers
10 under this Act, or who, being the occupier of any premises, refuses to permit or to assist an authorised officer to do, perform or carry out the matters or things, or any of the matters or things, which he is authorised to do, perform or carry out is guilty of an offence against this Act and is liable
15 to a penalty not exceeding five hundred dollars.

31. If any person discloses any information obtained by him in connection with the administration or execution of this Act, he is, unless the disclosure is made—
Disclosure of information.

20 (a) with the consent of the person from whom the information was obtained or, where the information relates to the carrying on on any premises of any trade or industry, with the consent of the occupier of those premises;

25 (b) in connection with the administration or execution of this Act; or

(c) subject to the provisions of section twenty-nine of this Act, for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings,

30 guilty of an offence against this Act and liable to a penalty not exceeding one thousand dollars.

32.

Water Pollution.

32. Any notice under section sixteen, subsection four of section twenty-one or section twenty-three, and any instrument under section twenty-seven, of this Act may be served—

Serving of notices.

- 5 (a) by delivering it personally to the person to whom it is addressed;
- (b) by delivering it to the place last shown in the records of the Under Secretary as the place of abode or business of the person to whom it is addressed and by leaving it there with some person for him;
- 10 or
- (c) by posting it duly stamped and addressed to the person to whom it is addressed at the place last shown in the records of the Under Secretary as his place of abode or business.

15 33. (1) Proceedings for an offence against this Act or the regulations may be taken before a court of petty sessions held before a stipendiary magistrate sitting alone or before the Supreme Court in its summary jurisdiction.

Proceedings for offences.

20 (2) Proceedings for an offence against this Act or the regulations shall not be instituted without the written consent of the Minister or of such officer of the Department as may be authorised in writing by the Minister for the purposes of this subsection.

25 (3) If proceedings in respect of an offence against this Act or the regulations are brought in a court of petty sessions held before a stipendiary magistrate, the maximum penalty that the court may impose in respect of the offence is, notwithstanding any other provision of this Act, one thousand dollars (including any daily penalty) or the maximum penalty provided by this Act or the regulations in respect of the offence, whichever is the lesser.

30

(4) If proceedings in respect of an offence against this Act are brought in the Supreme Court in its summary jurisdiction, the Supreme Court may impose a penalty not exceeding the maximum penalty provided by this Act or the regulations in respect of the offence.

35

Water Pollution.

34. Where any person has been convicted of an offence against this Act arising under section seventeen of this Act the court by which he is convicted, in addition to or instead of imposing a penalty for the offence, may order that person
5 to take such steps within such time as may be specified in the order to prevent the continuance or recurrence of the offence and may upon application enlarge the time so specified; and if, upon the expiration of the time originally specified or so enlarged the order has not been complied with, the person so
10 convicted shall be liable to a penalty not exceeding one thousand dollars for every day that the non-compliance continues after that time.

Power to order contravention to be remedied.

35. Nothing in this Act or the regulations affects any right that a person may have under any rule of law to restrict
15 or prevent, or to obtain damages in respect of, the pollution of any waters.

Other rights to restrict or prevent pollution, etc., not affected.

36. (1) The Governor may make regulations, not inconsistent with this Act for or with respect to— Regulations.

- 20 (a) the issue, renewal, revocation, suspension or transfer of licences and the granting of approvals under subsection one of section twenty of this Act;
- (b) prescribing standards for the purpose of determining when matter is to be treated as poisonous, noxious or polluting for the purposes of this Act;
- 25 (c) prescribing tests for the determination of the extent of pollution of any waters and providing that any determination made in accordance with those tests shall be conclusive evidence of the extent of pollution of any waters in respect of which the tests
30 have been made;
- (d) the marking of places where pollutants are discharged into any waters;

(e)

Water Pollution.

- (e) prohibiting or regulating bathing, swimming or boating or any other aquatic activity specified in the regulations in, on, or around any waters that form part of any public water supply system;
- 5 (f) the classification by the Under Secretary of any waters as classified waters;
- (g) the hearing by the Board of objections referred to in section fourteen of this Act;
- 10 (h) exempting any persons or class of persons, or any premises or class of premises, from any specified provision or provisions of this Act, in such circumstances, if any, and subject to such conditions, if any, as may be specified in the regulations;
- 15 (i) generally, the prevention, control, abatement or mitigation of the pollution of waters;
- (j) 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.

20 (2) The provisions of section 26B of the Public Health Act, 1902, as subsequently amended, do not apply to regulations made under this Act.

25 (3) The regulations may impose a penalty not exceeding two thousand dollars for an offence against the regulations and in the case of a continuing offence a further penalty not exceeding one thousand dollars for each day the offence continues.

30 (4) Regulations under this section may be so made as to apply to the whole of the State or to any specified part or parts thereof, to all waters or to any specified waters or classes of waters, to all premises or any specified class of premises or to any specified person or to any specified class or classes of persons.

(5)

Water Pollution.

(5) The regulations shall—

(a) be published in the Gazette;

5 (b) take effect from the date of publication or from a later date to be specified in the regulations;

(c) be laid before both Houses of Parliament within fourteen sitting days if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

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

15 **37.** The Local Government Act, 1919, as subsequently amended, is amended by inserting next after paragraph (o) of section three hundred and thirteen the following new paragraph :—

20 (p) whether the use of the building is likely to cause pollution (as defined in the Water Pollution Act, 1969) to any waters, as so defined.

Amendment
of Act No.
41, 1919.
Sec. 313.
(Subjects
for con-
sideration.)

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1969

[25c]

WATER POLLUTION BILL, 1969

EXPLANATORY NOTE

THE objects of this Bill are—

- (a) to constitute a Water Pollution Advisory Committee to consist of twelve members and to confer certain functions on the Committee ;
- (b) to constitute a Classification of Waters Appeals Board to hear objections to the classification of waters, as referred to in paragraph (d) hereunder;
- (c) to authorise the Under Secretary, Department of Public Health, to classify or reclassify any waters, as defined in the Bill ;
- (d) to enable any person to object to any proposed classification of any waters and to provide for any such objection to be determined by the Classification of Waters Appeals Board ;
- (e) to prohibit any person from polluting any waters otherwise than under and in accordance with the conditions contained in a licence granted to him;
- (f) to require any person in whom is vested, or who has the care, control and management of, or who is the occupier of, any land on which is situated, any drain as defined in the Bill, to hold a licence if the drain discharges or is likely to be used for discharging pollutants into any classified waters;
- (g) to prohibit a person from installing or constructing any apparatus, equipment or works for the discharge of any pollutants into any waters unless he holds the approval in writing of the Under Secretary, Department of Public Health ;
- (h) to make provision for the issue, renewal, transfer, revocation, suspension or variation of a licence referred to in the Bill;
- (i) to empower the Under Secretary, Department of Public Health, to require an applicant for a licence or an approval referred to in paragraph (g) above to furnish such information and plans as may be required by the Under Secretary ;
- (j) to enable an applicant for, or the holder of, a licence who is aggrieved by any decision of the Under Secretary in relation to his application or licence, and an applicant for an approval referred to in paragraph (g) above who is aggrieved by any decision of the Under Secretary in relation to his application, to appeal against the Under Secretary's decision to a District Court ;
- (k) to empower the Minister in cases of emergency—
 - (i) to authorise the discharge of pollutants into waters; or
 - (ii) to prohibit the discharge of pollutants into any waters ;
- (l) to provide for the recovery of costs and expenses incurred by a statutory authority or local authority in removing, dispersing, destroying or mitigating pollution of any waters;
- (m) to confer powers of entry and inspection and certain other powers on authorised officers as defined in the Bill ; and
- (n) to make other provisions of an ancillary or consequential character.

PROOF

No. , 1969.

A BILL

To make provisions with respect to the prevention or the reduction of pollution of certain waters; and for purposes connected therewith.

[MR JAGO—27 March, 1969.]

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.

1. (1) This Act may be cited as the "Water Pollution Act, 1969".

Short title and commencement.

65621 263—A

(2)

Water Pollution.

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

2. This Act is divided into Parts, as follows :—

Division
of Act.

5 PART I.—PRELIMINARY—*ss.* 1–6.

PART II.—WATER POLLUTION ADVISORY COMMITTEE
AND CLASSIFICATION OF WATERS APPEALS BOARD—
ss. 7–11.

PART III.—CLASSIFICATION OF WATERS—*ss.* 12–16.

10 PART IV.—CONTROL OF POLLUTION OF WATERS—
ss. 17–28.

PART V.—GENERAL—*ss.* 29–37.

3. This Act binds the Crown.

Act binds
Crown.

15 4. (1) Subject to subsection two of this section, nothing
in this Act affects any of the provisions of the Maritime
Services Act, 1935, as subsequently amended, the Sydney
Harbour Trust Act, 1900, as subsequently amended, the
Inflammable Liquid Act, 1915, as subsequently amended, the
Local Government Act, 1919, as subsequently amended, the
20 Prevention of Oil Pollution of Navigable Waters Act, 1960,
as subsequently amended, or any other Act, or any regula-
tions, ordinances or by-laws thereunder or take away any
powers vested in any person or body by any of those Acts,
regulations, ordinances or by-laws.

Effect of
this Act on
other Acts.

25 (2) Where the provisions of this Act or any regula-
tion thereunder are inconsistent with any of the provisions
of any other Act or any regulation, ordinance or by-law made
under any other Act (other than the Prevention of Oil Pollu-
tion of Navigable Waters Act, 1960, as subsequently amended,
30 or any regulation thereunder), the provisions of this Act
or of the regulations thereunder shall prevail.

5.

Water Pollution.

5. In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Interpre-
tation.

5 “authorised officer” means a person authorised in writing by the Under Secretary either generally or in a special case to act as an authorised officer for the purposes of section thirty of this Act;

“Board” means the Classification of Waters Appeals Board constituted under section ten of this Act;

10 “classified waters” means any waters classified by the Under Secretary under section twelve of this Act;

“Committee” means the Water Pollution Advisory Committee constituted under section seven of this Act;

“Department” means the Department of Public Health;

15 “fish” has the meaning ascribed thereto in the Fisheries and Oyster Farms Act, 1935, as subsequently amended;

“licence” means a valid and unexpired licence issued under this Act, whether it is an original or a renewed licence;

20 “local authority” has the meaning ascribed thereto in the Public Health Act, 1902, as subsequently amended;

25 “occupier”, in relation to any premises, means the person in occupation or control of the premises and, in relation to any premises where different parts are occupied by different persons, means, in relation to any such part, the person in occupation or control of that part;

“pollute”, in relation to any waters, means—

30 (a) to place in or on the waters or any part thereof any matter, whether solid, liquid or gaseous, so that the physical, chemical or biological condition of the waters or any part thereof is changed; or

(b)

Water Pollution.

(b) to place in or on the waters or any part thereof any refuse, litter, debris or other matter, whether solid or liquid or gaseous,

5 so that the change in the condition of the waters or the refuse, litter, debris or other matter, either alone or together with any other refuse, litter, debris or matter present in the waters makes, or is likely to make, the waters or any part thereof unclean, noxious, poisonous or impure, detrimental to the health, safety, welfare or property of persons, undrinkable for farm animals, poisonous or harmful to aquatic life, animals, birds or fish in or around the waters or part or unsuitable for use in irrigation, or obstructs or interferes with, or is likely to obstruct or interfere with persons in the exercise or enjoyment of any right in relation to the waters or part; or

20 (c) to place in or on any waters any matter, whether solid, liquid or gaseous, that is of a prescribed nature, description or class or that does not comply with any standard prescribed in respect of that matter,

and "pollutant" and "pollution" have corresponding interpretations;

25 "premises" includes place, ship, boat and any other vessel whatsoever;

"prescribed" means prescribed by this Act or by the regulations;

"regulations" means regulations made under this Act;

30 "statutory authority" means the Broken Hill Water Board, the Electricity Authority of New South Wales, the Electricity Commission of New South Wales,

Water Pollution.

5 Wales, the Hunter District Water Board, the Maritime Services Board of New South Wales, the Metropolitan Meat Industry Board, the Metropolitan Water Sewerage and Drainage Board, the Water Conservation and Irrigation Commission and any person deemed by the Transport (Division of Functions) Act, 1932, as subsequently amended, to be a statutory body representing the Crown and any statutory body declared by the Governor, by proclamation published in the Gazette, to be a
10 statutory authority for the purposes of this Act;

“Under Secretary” means the Under Secretary of the Department and, where an officer of the Department has been authorised in writing by the Under Secretary to exercise or perform any of the powers, authorities, duties or functions of the Under Secretary under this Act or the regulations either generally or in a particular case, includes, in relation
15 to the exercise or performance of any such powers, authorities, duties or functions either generally or in that particular case, as the case may be, that officer;

“wastes” means any solid, gas or liquid, with or without matter in suspension or solution therein, which is or may be discharged from premises in the course of any process or operation carried on in connection with any mine (within the meaning of the Mines Inspection Act, 1901, as subsequently amended, or the Coal Mines Regulation Act, 1912, as subsequently amended), open cut working (within the meaning of the Coal Mines Regulation Act, 1912, as subsequently amended), coal washing, trade,
25 industry, agriculture or sewage treatment or in the course of any domestic process or operation;

“waters” means any river, stream, lake, lagoon, natural or artificial watercourse, dam or tidal waters and includes any underground or artesian water.
35

Water Pollution.

6. This Act shall be read and construed as operating to the full extent of, but so as not to exceed, the legislative powers of the State, to the intent that where any provision of this Act, or the application of any such provision to any person, subject-matter or circumstance, would, but for this section, have been construed as being in excess of those powers, it shall be a valid provision to the extent to which it is not in excess of those powers, and the remainder of this Act and the application of the provision to other persons, subject-matters or circumstances shall not be affected.

Plenary construction of this Act.

PART II.

**WATER POLLUTION ADVISORY COMMITTEE AND
CLASSIFICATION OF WATERS APPEALS BOARD.**

7. (1) For the purposes of this Act there shall be constituted a Water Pollution Advisory Committee which shall consist of twelve members.

Water Pollution Advisory Committee.

(2) The members of the Committee shall be—

(a) the person for the time being holding office as or duly acting in the office of Director-General of Public Health, or a person from time to time nominated by him; and

(b) eleven members appointed by the Governor (in this section referred to as "appointed members") of whom—

(i) one shall be an officer of the Department of Public Works nominated by the Minister for Public Works;

(ii) one shall be an officer of the Chief Secretary's Department nominated by the Chief Secretary;

(iii)

Water Pollution.

- (iii) one shall be a representative of the Water Conservation and Irrigation Commission nominated by the Minister for Conservation;
- 5 (iv) one shall be a representative of the Maritime Services Board of New South Wales nominated by the Treasurer;
- (v) one shall be a representative of the Metropolitan Water Sewerage and Drainage Board nominated by that Board;
- 10 (vi) one shall be a representative of the Local Government Association of New South Wales nominated by that Association;
- (vii) one shall be a representative of the Shires Association of New South Wales nominated by that Association; and
- 15 (viii) four shall be nominated by the Minister, of whom one shall be appointed to represent primary industry and one secondary industry and two shall be persons with such technical qualifications as the Minister considers appropriate.
- 20 (3) (a) The member referred to in paragraph (a) of subsection two of this section shall be chairman of the 25 Committee.
- (b) The chairman shall preside at all meetings of the Committee at which he is present and in the absence of the chairman from any meeting the members present shall appoint one of their number to preside at that meeting.
- 30 (4) The appointed members shall hold office for a period of three years and shall be eligible for reappointment.

(5)

Water Pollution.

(5) If a casual vacancy occurs in the office of an appointed member, the Governor may appoint a person having the like qualification or being representative of the like interest as his predecessor to hold office as a member
5 of the Committee for the balance of his predecessor's term of office.

(6) An appointment to fill a casual vacancy shall be made on the nomination of the person or body by whom the nomination of the person whose office has been vacated was
10 made.

(7) Any nomination of an appointed member shall be made within the time and in the manner prescribed and in default of any person or body entitled to make any such nomination doing so within that time and in that manner the
15 Governor may appoint any person to the Committee as if that person had been duly nominated by the person or body entitled to make the nomination.

8. (1) The Committee may establish sub-committees for Sub-
the purpose of advising the Committee upon such matters committees.
20 within the scope of the Committee's functions as may be referred to the sub-committees by the Committee.

(2) A person may be appointed to a sub-committee whether or not he is a member of the Committee.

(3) A sub-committee may exercise and discharge such
25 of the Committee's powers, authorities, duties and functions as may be delegated to it by the Committee.

(4) Notwithstanding any such delegation, the Committee may continue to exercise and discharge any of the powers, authorities, duties and functions so delegated.

30 (5) The Committee may at any time revoke any such delegation, either wholly or in part.

(6)

Water Pollution.

(6) Every member of a sub-committee shall be entitled to receive such travelling expenses and, if the Minister so approves, such fees for attending meetings and transacting business of the sub-committee, and making inspections for 5 the purposes of this Act, as may be prescribed.

(7) The office of a member of a sub-committee shall not, by reason of the member accepting or receiving any fees or expenses to which he is entitled under subsection six of this section, be deemed to be an office of profit under the 10 Crown for the purposes of the Constitution Act, 1902, or any Act amending that Act.

9. (1) The Committee may initiate and refer to the Minister— Functions of Committee.

- 15 (a) recommendations for making, altering or repealing any regulation;
- (b) recommendations relating to the administration of this Act;
- (c) recommendations for the prevention, control, abatement or mitigation of pollution.

20 (2) It shall be the duty of the Committee to make recommendations to the Under Secretary in respect of matters referred to it by the Under Secretary and to consider and advise the Minister upon such matters and questions as the Minister may from time to time refer to it relating to—

- 25 (a) any proposal for making, altering or repealing any regulation;
- (b) the administration of this Act;
- (c) the prevention, control, abatement or mitigation of pollution.

30 (3) The Committee shall, not later than the thirtieth day of September in each year, forward to the Minister a report of its work and activities during the year ended the thirtieth day of June then last past.

(4) A copy of the report shall be laid before both 35 Houses of Parliament.

Water Pollution.

10. (1) For the purposes of this Act there shall be constituted a Classification of Waters Appeals Board which shall consist of five members.

Classifica-
tion of
Waters
Appeals
Board.

(2) One of the members of the Board shall, by the instrument of his appointment be appointed as chairman of the Board and another of the members shall, by the instrument of his appointment be appointed as deputy chairman of the Board.

(3) The members of the Board shall be appointed by the Governor, shall hold office for four years and shall be eligible for reappointment.

(4) If a casual vacancy occurs in the office of a member of the Board, the Governor may appoint a person to hold office as a member of the Board for the balance of his predecessor's term of office.

(5) The chairman shall preside at all meetings of the Board at which he is present and in the absence of the chairman from any meeting of the Board the deputy chairman shall preside.

11. (1) In this section "body constituted under this Part" means the Committee or the Board.

Provisions
applicable
to the
Committee
and the
Board.

(2) The procedure for the calling of meetings of a body constituted under this Part and for the conduct of business at those meetings shall, subject to the regulations, be as determined by that body.

(3) The number of members who shall constitute a quorum of a body constituted under this Part shall be as prescribed and the decision of the majority of members present at any meeting at which a quorum is present shall be the decision of that body.

(4) The person entitled to preside at any meeting of a body constituted under this Part shall have a deliberative vote and, in the event of an equality of votes, a casting vote.

(5)

Water Pollution.

(5) A member of a body constituted under this Part shall be deemed to have vacated his office if he—

- (a) dies;
- 5 (b) resigns his office by writing under his hand addressed to the Governor;
- (c) becomes a mentally ill person, a protected person, or an incapable person, within the meaning of the Mental Health Act, 1958, as subsequently amended;
- 10 (d) absents himself from four consecutive meetings of the body of which reasonable notice has been given to him either personally or in the ordinary course of post except on leave granted by the Minister before the last of those meetings; or
- 15 (e) is removed from office by the Governor.

(6) Without limiting the operation of subsection five of this section a member of a body constituted under this Part shall be deemed to have vacated his office upon his attaining the age of seventy years.

- 20 (7) Every member of a body constituted under this Part shall be entitled to receive such travelling expenses, and every such member (other than the member referred to in paragraph (a) of subsection two of section seven of this Act) shall, if the terms of his appointment so provide, be entitled
- 25 to receive such fees for attending meetings and transacting business of the body and, in the case of a member of the Committee, such fees for making inspections for the purposes of this Act, as may be prescribed.

- 30 (8) The office of a member (other than the member referred to in paragraph (a) of subsection two of section seven of this Act) shall not, by reason of the member accepting or receiving any fees or expenses to which he is entitled under subsection seven of this section, be deemed to be an office of profit under the Crown for the purposes of the
- 35 Constitution Act, 1902, or any Act amending that Act.

(9)

Water Pollution.

(9) The provisions of the Public Service Act, 1902, as subsequently amended, shall not apply to or in respect of the appointment of any member of a body constituted under this Part, and any such member shall not, in his capacity as
5 such a member, be subject to the provisions of that Act during his term of office.

(10) No act or proceeding of a body constituted under this Part shall be invalidated or prejudiced by reason only of the fact that at the time the act or proceeding was
10 done, taken or commenced, there was a vacancy in the office of any member of the body.

(11) All acts and proceedings of a body constituted under this Part shall, notwithstanding the subsequent discovery of any defect in the appointment of any member thereof, or
15 that any member was disqualified to act, be as valid as if the member had been duly appointed and was qualified to act and had acted as a member of the body, and as if the body had been properly and fully constituted.

PART III.

CLASSIFICATION OF WATERS.

20

12. (1) Subject to this Part, the Under Secretary may, by notification published in the Gazette, classify or reclassify any waters by reference to any prescribed classification. Under Secretary may classify waters.

(2) The Under Secretary shall not cause a notification under subsection one of this section classifying any waters
25 to be published in the Gazette—

(a) where no objection to the proposal to classify the waters as referred to in a notice published under section thirteen of this Act is made within the prescribed time referred to in subsection one of section fourteen of this Act—until after the expiration of that prescribed time; or
30

(b) where an objection to such a proposal is so made—until the objection has been finally determined.

(3)

Water Pollution.

(3) The regulations prescribing any classification for the purposes of subsection one of this section shall specify, in relation to waters of that classification, a standard applicable to waters of that classification.

5 **13.** Not less than one month before the publication of a notification under section twelve of this Act classifying any waters, the Under Secretary shall cause a notice describing generally the waters and specifying the classification he proposes to assign to them to be published in the Gazette and in
10 a newspaper circulating in such area as the Under Secretary considers appropriate having regard to the situation of the waters.

Proposal
for
classifying
waters to be
published.

14. (1) Any person may, in the prescribed manner, within the prescribed time after publication of the notices
15 or the later of the notices published under section thirteen of this Act and on payment of the prescribed fee, object to the classification proposed to be assigned to any waters as referred to in the notice or notices.

Objections
to classifica-
tion of
waters.

(2) Any such objection shall be lodged with the
20 Under Secretary who shall forward it to the Board.

15. (1) Where an objection is made to a classification proposed to be assigned to any waters as referred to in a notice under section thirteen of this Act, the Board shall hear and determine the objection and shall either—

Determina-
tion of
objections
by the
Board.

- 25 (a) confirm the proposed classification; or
 (b) direct that some other prescribed classification be assigned to the waters.

(2) Proceedings before the Board shall be in the nature of a rehearing.

30 (3) A determination of the Board under subsection one of this section shall be final and shall be given effect to by the Under Secretary, but nothing in this subsection prevents the Under Secretary, where he considers the circumstances so warrant, from reclassifying any waters in respect
35 of which the Board has made such a determination.

Water Pollution.

16. (1) The Board may by notice in writing served on any person require that person— Proceedings of Board.

(a) to attend before it for the purpose of giving evidence; or

5 (b) to produce to the Board any documents, relating to any proceedings before the Board.

(2) A person who refuses or fails to comply with the requirement of a notice under subsection one of this section is guilty of an offence against this Act and liable to a **10** penalty not exceeding two hundred dollars.

PART IV.

CONTROL OF POLLUTION OF WATERS.

17. (1) A person shall not pollute any waters or knowingly cause or permit any waters to be polluted. Prohibition of pollution of waters.

15 (2) Without limiting the generality of subsection one of this section, a person contravenes that subsection if—

20 (a) he places any matter, whether solid, liquid or gaseous, in a position where it falls, descends, is washed, is blown or percolates, or is likely to fall, descend, be washed, be blown or percolate, into any waters, or onto the bed of any waters, when dry, or knowingly causes or permits any such matter to be placed in such a position; or

25 (b) he places any such matter on the bed, when dry, of any waters, or knowingly causes or permits any such matter to be placed on such a bed,

and the matter would, had it been placed in any waters have polluted or have been likely to pollute those waters.

(3)

Water Pollution.

(3) Notwithstanding the foregoing provisions of this section, it shall not be an offence against this Act arising under those provisions for any person to pollute any waters, during a period of two years from the commencement of this Act or
5 during such further period as may be prescribed, either generally or in respect of specified waters or pollution from any specified premises or classes of premises, by means of any wastes of substantially the same nature and volume as wastes by means of which those waters are being polluted by him
10 at the commencement of this Act.

(4) Notwithstanding the foregoing provisions of this section it shall not be an offence against this Act arising under those provisions for a person to pollute any waters if he holds a licence and does not pollute the waters in contravention
15 of any of the conditions of the licence.

(5) Any person who contravenes the provisions of this section or, being the holder of a licence, contravenes any condition in force and attaching to the licence is guilty of an offence against this Act and is liable to a penalty not exceeding
20 two thousand dollars and to a further penalty not exceeding one thousand dollars for each day the offence continues.

18. (1) A person in whom is vested, or who has the care, control or management of, or who is the occupier of any land on which is situated, a drain, whether open or not
25 shall, if the drain discharges or is likely to be used for discharging any pollutants into any classified waters, be guilty of an offence against this Act unless a licence is in force in respect of the drain.

Licences
in respect
of certain
drains.

(2) Without limiting the generality of subsection one
30 of this section, a drain shall, for the purposes of that subsection, be deemed to discharge or to be likely to be used for discharging pollutants into any classified waters if—

(a) it discharges or is likely to be used for discharging any matter, whether solid, liquid or gaseous, into or
35 onto any place from which the matter falls, descends,

Water Pollution.

descends, is washed, is blown or percolates or is likely to fall, descend, be washed, be blown or percolate into any classified waters or onto the bed of any classified waters, when dry; or

- 5 (b) it discharges or is likely to be used for discharging any matter into or onto the bed, when dry, of any classified waters,

and the matter would, had it been discharged into any classified waters, have polluted or have been likely to pollute
10 those waters.

(3) Nothing in this section applies to or in respect of any drain from which any pollutants are discharged, or which is likely to be used for discharging any pollutants, into any other drain with the consent of the person in whom the other
15 drain is vested, or who has the care, control or management of the other drain, or who is the occupier of the land on which the other drain is situated, or into any other drain in respect of which a licence is held by the person in whom the
20 firstmentioned drain is vested, or who has the care, control or management of the firstmentioned drain, or who is the occupier of the land on which the firstmentioned drain is situated.

(4) In this section, "drain" means any drain, line of pipes, sewer, stormwater channel or artificial watercourse.

25 (5) Any person guilty of an offence against this Act arising under this section is liable to a penalty not exceeding two thousand dollars and to a further penalty not exceeding one thousand dollars for each day the offence continues.

19. Notwithstanding any provision of section seventeen
30 or eighteen of this Act, where a person becomes the occupier of any premises and immediately before he became the occupier of the premises the premises were occupied by a person who was the holder of a licence, that firstmentioned
person

Postpone-
ment of
operation
of sections
17 and 18.

Water Pollution.

person is not guilty of an offence against this Act arising under any such provision if, had he been the holder of the licence, he would not have been guilty of the offence and—

- 5 (a) if the offence occurred during the prescribed period after he became the occupier of the premises; or
- 10 (b) if he has, during that prescribed period, made application under subsection eight of section twenty-one of this Act for the transfer to him of the licence and the offence occurred during the period commencing on the day on which he became the occupier of the premises and ending on the day on which the application is finally determined.

20. (1) A person shall not install, construct or modify any apparatus, equipment or works for the discharge of pollutants into any waters, except in accordance with an approval in writing given by the Under Secretary.

Under Secretary's approval to installation or construction of certain apparatus, etc., required.

(2) An application for an approval under subsection one of this section shall be made to the Under Secretary in the prescribed manner and shall be accompanied by the prescribed fee.

(3) An approval under subsection one of this section may be unconditional or subject to such conditions as may be specified in the approval.

25 (4) Any person who contravenes the provisions of subsection one of this section or of any conditions attached to an approval given under that subsection is guilty of an offence against this Act and is liable to a penalty not exceeding two thousand dollars.

30 21. (1) An application for a licence or transfer thereof shall be made to the Under Secretary in or to the effect of the prescribed form and shall be accompanied by the prescribed fee.

Licences.

Water Pollution.

(2) The Under Secretary—

(a) may grant any application for a licence or transfer thereof, either subject to conditions or unconditionally; or

5 (b) may refuse any such application.

(3) A licence specifying a drain (as defined in subsection four of section eighteen of this Act) from which pollutants may be discharged into any waters shall, if the waters are classified waters, be deemed, for the purposes of
10 that section, to be a licence in respect of that drain.

(4) The Under Secretary may during the currency of a licence, by a notice in writing served on the holder of the licence,—

15 (a) revoke the licence or suspend it for such period expiring not later than the date of expiry of the licence as he thinks fit;

(b) revoke or vary any condition attached to the licence; or

(c) attach new conditions to the licence.

20 (5) Before imposing any conditions under paragraph (a) of subsection two, or exercising any powers under subsection four of this section, the Under Secretary shall refer his proposal to do so to the Committee and, in imposing any such conditions or exercising any such powers, shall have
25 regard to any recommendation with respect thereto made by the Committee.

(6) In exercising his powers under subsection two or four of this section the Under Secretary shall have regard to the extent of the pollution of any waters likely to be caused
30 by the applicant, if his application is granted, or being caused by the licensee, as the case may be, and where the application or licence is in respect of pollution of classified waters, to the classification of those classified waters.

(7)

Water Pollution.

(7) The revocation or suspension of a licence, the revocation or variation of any condition attached to a licence or the attaching of a new condition to a licence, under subsection four of this section shall not have any force until the **5** time limited for appealing against the Under Secretary's decision has expired and, where an appeal against the decision has been made under this Act, until the court hearing the appeal confirms the decision.

(8) A person, with the consent of the holder of a **10** licence, may make application in or to the effect of the prescribed form, accompanied by the prescribed fee, to the Under Secretary for approval of the transfer to him of the licence held by that holder.

22. A licence shall remain in force for a period of one **15** year from the date of its issue and may from time to time be renewed for a period of one year upon application made within the prescribed time. Duration of licences.

23. The Under Secretary may, by notice in writing served **20** on an applicant for an approval under section twenty of this Act or for a licence, require the applicant to furnish to the Under Secretary such information and such plans and specifications as the Under Secretary considers necessary and relevant to the application and specifies in the notice. Under Secretary may require applicant to furnish information, etc.

24. The Under Secretary shall cause to be kept such **25** registers of licences as may be prescribed. Registers of licences.

25. (1) The fee payable for a licence or for an approval **30** under section twenty of this Act shall be such amount as may be prescribed, not exceeding one thousand dollars. Fees.

(2) Different fees for licences or any such approval **30** may be prescribed according to any prescribed factors.

(3) The fee payable in respect of the transfer of a licence shall be as prescribed.

Water Pollution.

26. (1) Any applicant for, or holder of, a licence who Appeals.
is aggrieved by any decision of the Under Secretary under
subsection two or four of section twenty-one of this Act in
relation to the application or licence, and any applicant for
5 an approval under subsection one of section twenty or sub-
section eight of section twenty-one of this Act who is aggrieved
by any decision of the Under Secretary in relation to his
application may appeal against that decision to the District
Court exercising jurisdiction—
- 10 (a) in the district in which the applicant or holder
resides or has a place of business; or
- (b) where the applicant or holder does not reside or
have a place of business in the district of a District
15 Court, in the district nearest to which the waters
to which the application or licence relates are
situated.
- (2) Any such appeal shall be in the nature of a
rehearing and shall be made in accordance with rules of
court.
- 20 (3) The decision of the Court in respect of any such
appeal shall be final and shall be given effect to by the Under
Secretary.
27. (1) The Minister may, in circumstances that he Minister's
considers to be an emergency, by instrument in writing served emergency
25 on any person— powers.
- (a) authorise that person, subject to such conditions as
may be specified in the instrument, to discharge
30 into any waters any pollutants or any specified class
of pollutants; or
- (b) order that person not to discharge into any waters,
whether or not they are classified waters and whether
or not that person is the holder of a licence, any
pollutants or any specified class of pollutants or not
to discharge into any such waters any pollutants or
35 any specified class of pollutants otherwise than
in accordance with any conditions specified in the
instrument. (2)

Water Pollution.

(2) A person who—

- 5 (a) discharges any pollutants or any specified class of pollutants into any waters, if he is authorised to do so by an instrument under subsection one of this section and does so in accordance with any conditions specified in the instrument, is, notwithstanding any other provision of this Act, not guilty of an offence against this Act arising under section seven-
10 teen or eighteen of this Act by reason of that discharge; or
- 15 (b) discharges any pollutants or any specified class of pollutants into any waters in contravention of an order referred to in paragraph (b) of subsection one of this section that has been served on him, is, notwithstanding any other provision of this Act, guilty of an offence against this Act and is liable to a penalty not exceeding two thousand dollars and to a further penalty not exceeding one thousand dollars for each day the offence continues.

20 **28.** (1) Where any waters, whether or not they are classified waters, are polluted by any person, any statutory authority or local authority may and shall, if directed to do so by the Under Secretary, take such action as is necessary to remove, disperse, destroy or mitigate the pollution and
25 may recover all costs and expenses incurred by it in connection with the removal, dispersal, destruction or mitigation of the pollution from that person. Removal of pollutants.

(2) Any such costs and expenses may be recovered as a debt in a court of competent jurisdiction.

PART

Water Pollution.

PART V.

GENERAL.

29. (1) The Under Secretary may, by notice in writing served on the occupier of any premises, require that occupier
5 to furnish to him within fourteen days or such longer period as may be specified in the notice, such information as to any manufacturing, industrial or trade process carried on in or on the premises or as to any wastes discharged or likely to be discharged therefrom as he requires by the notice.

Occupier of premises may be required to furnish information.

10 (2) A person who neglects or fails to comply with any requirement made under this section is guilty of an offence against this Act and liable to a penalty not exceeding five hundred dollars.

15 (3) Any information furnished or statement made to the Under Secretary pursuant to any requirement made under subsection one of this section shall not, if the person furnishing the information or making the statement objected, at the time of furnishing or making it, to doing so on the ground that it might tend to incriminate him, be admissible
20 in evidence in any prosecution against that person for any offence, not being the offence of neglecting or failing to comply with any requirement made under this section.

30. (1) An authorised officer may enter—

25 (a) any premises used as a factory or any premises in which an industry or trade is being carried on, at any time during which any manufacturing, industrial or trade process is being carried on therein, and

Powers of authorised officers.

(b) any other premises, at any reasonable time,

30 and may therein—

(i) examine and inspect any apparatus, equipment or works used for or in connection with the discharge of wastes into waters;

35 (ii) take and remove samples of any wastes that are being, or are likely to be, or of a kind that are usually, discharged from the premises into waters;

(iii)

Water Pollution.

- 5 (iii) take and remove such samples and make such examination and inquiry and such tests as he considers necessary to ascertain whether provisions of this Act or of any requirement made under or pursuant to this Act or the conditions in force and attached to any licence or approval are being or have been complied with; and
- 10 (iv) take such photographs as he considers necessary in connection with the administration of this Act or the regulations.
- (2) An authorised officer may, by notice in writing, require—
- 15 (a) the occupier of any premises from which pollutants are being or are usually discharged into any waters to produce to that authorised officer any reports, books, plans, maps or documents relating to the discharge from the premises of pollutants into the waters or relating to any manufacturing, industrial or trade process carried on on those premises; or
- 20 (b) any local authority or statutory authority to produce to that authorised officer any reports, books, plans, maps or documents in the custody or possession of the local authority or statutory authority relating to any apparatus, equipment or works used
- 25 for the discharge of pollutants directly or indirectly into waters,

and may take copies of any such reports, books, plans, maps or documents.

- 30 (3) Every authorised officer shall be provided with a certificate of his appointment, and on applying for admission to any premises or place where he is empowered by this Act to enter, shall, if requested to do so, produce the certificate to the occupier of the premises.

(4)

Water Pollution.

(4) Notwithstanding the provisions of subsection one of this section, an authorised officer is not entitled to enter a private dwelling-house, or the land used in connection therewith, unless he has reasonable grounds for believing that 5 pollutants are, have been or are likely to be, discharged from those premises into any waters.

(5) Any person who wilfully delays or obstructs an authorised officer, or fails to comply with any requirement made by an authorised officer, in the exercise of his powers 10 under this Act, or who, being the occupier of any premises, refuses to permit or to assist an authorised officer to do, perform or carry out the matters or things, or any of the matters or things, which he is authorised to do, perform or carry out is guilty of an offence against this Act and is liable 15 to a penalty not exceeding five hundred dollars.

31. If any person discloses any information obtained by him in connection with the administration or execution of this Act, he is, unless the disclosure is made— Disclosure of information.

(a) with the consent of the person from whom the information was obtained or, where the information relates to the carrying on on any premises of any trade or industry, with the consent of the occupier of those premises; 20

(b) in connection with the administration or execution of this Act; or 25

(c) subject to the provisions of section twenty-nine of this Act, for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings, 30

guilty of an offence against this Act and liable to a penalty not exceeding one thousand dollars.

32.

Water Pollution.

32. Any notice under section sixteen, subsection four of section twenty-one or section twenty-three, and any instrument under section twenty-seven, of this Act may be served—

Serving of notices.

- 5 (a) by delivering it personally to the person to whom it is addressed;
- (b) by delivering it to the place last shown in the records of the Under Secretary as the place of abode or business of the person to whom it is addressed and by leaving it there with some person for him;
- 10 or
- (c) by posting it duly stamped and addressed to the person to whom it is addressed at the place last shown in the records of the Under Secretary as his place of abode or business.

15 33. (1) Proceedings for an offence against this Act or the regulations may be taken before a court of petty sessions held before a stipendiary magistrate sitting alone or before the Supreme Court in its summary jurisdiction.

Proceedings for offences.

20 (2) Proceedings for an offence against this Act or the regulations shall not be instituted without the written consent of the Minister or of such officer of the Department as may be authorised in writing by the Minister for the purposes of this subsection.

25 (3) If proceedings in respect of an offence against this Act or the regulations are brought in a court of petty sessions held before a stipendiary magistrate, the maximum penalty that the court may impose in respect of the offence is, notwithstanding any other provision of this Act, one thousand dollars (including any daily penalty) or the maximum penalty provided by this Act or the regulations in respect of the offence, whichever is the lesser.

35 (4) If proceedings in respect of an offence against this Act are brought in the Supreme Court in its summary jurisdiction, the Supreme Court may impose a penalty not exceeding the maximum penalty provided by this Act or the regulations in respect of the offence.

Water Pollution.

34. Where any person has been convicted of an offence against this Act arising under section seventeen of this Act the court by which he is convicted, in addition to or instead of imposing a penalty for the offence, may order that person
5 to take such steps within such time as may be specified in the order to prevent the continuance or recurrence of the offence and may upon application enlarge the time so specified; and if, upon the expiration of the time originally specified or so enlarged the order has not been complied with, the person so
10 convicted shall be liable to a penalty not exceeding one thousand dollars for every day that the non-compliance continues after that time.

Power to order contravention to be remedied.

35. Nothing in this Act or the regulations affects any right that a person may have under any rule of law to restrict
15 or prevent, or to obtain damages in respect of, the pollution of any waters.

Other rights to restrict or prevent pollution, etc., not affected.

36. (1) The Governor may make regulations, not inconsistent with this Act for or with respect to—

Regulations.

- 20 (a) the issue, renewal, revocation, suspension or transfer of licences and the granting of approvals under subsection one of section twenty of this Act;
- (b) prescribing standards for the purpose of determining when matter is to be treated as poisonous, noxious or polluting for the purposes of this Act;
- 25 (c) prescribing tests for the determination of the extent of pollution of any waters and providing that any determination made in accordance with those tests shall be conclusive evidence of the extent of pollution of any waters in respect of which the tests
30 have been made;
- (d) the marking of places where pollutants are discharged into any waters;

(e)

Water Pollution.

- (e) prohibiting or regulating bathing, swimming or boating or any other aquatic activity specified in the regulations in, on, or around any waters that form part of any public water supply system;
 - 5 (f) the classification by the Under Secretary of any waters as classified waters;
 - (g) the hearing by the Board of objections referred to in section fourteen of this Act;
 - 10 (h) exempting any persons or class of persons, or any premises or class of premises, from any specified provision or provisions of this Act, in such circumstances, if any, and subject to such conditions, if any, as may be specified in the regulations;
 - 15 (i) generally, the prevention, control, abatement or mitigation of the pollution of waters;
 - (j) 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.
- 20 (2) The provisions of section 26B of the Public Health Act, 1902, as subsequently amended, do not apply to regulations made under this Act.
- (3) The regulations may impose a penalty not exceeding two thousand dollars for an offence against the
25 regulations and in the case of a continuing offence a further penalty not exceeding one thousand dollars for each day the offence continues.
- (4) Regulations under this section may be so made as to apply to the whole of the State or to any specified part
30 or parts thereof, to all waters or to any specified waters or classes of waters, to all premises or any specified class of premises or to any specified person or to any specified class or classes of persons.

(5)

Water Pollution.

(5) 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 in the regulations;
- 5 (c) be laid before both Houses of Parliament within fourteen sitting days if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

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

37. The Local Government Act, 1919, as subsequently
15 amended, is amended by inserting next after paragraph (o) of section three hundred and thirteen the following new paragraph :—

- (p) whether the use of the building is likely to cause
20 pollution (as defined in the Water Pollution Act, 1969) to any waters, as so defined.

Amendment
of Act No.
41, 1919.
Sec. 313.
(Subjects
for con-
sideration.)

BY AUTHORITY:

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