

GROUNDWATER ACT 1985

No. 84 of 1985

TABLE OF PROVISIONS

PART I

PRELIMINARY

1. Short title.
2. Commencement.
3. Interpretation.
4. Application of Act to partnerships.
5. Crown right in water.
6. Crown bound by this Act.

PART II

ADMINISTRATION

Division 1—The Groundwater Advisory Committee

7. Groundwater Advisory Committee.

Division 2—Duties of Director

8. Duties of Director.

PART III

GROUNDWATER

Division 1—Proclaimed regions

9. Proclaimed regions.
10. Existing wells in proclaimed regions.
11. Prohibition on the unlawful construction of wells, &c.
12. Grant of permit to withdraw or use water from wells.
13. Breach of term or condition of permit.
14. Suspension, &c., of permits.

Division 2—Wells

15. Notification of particulars relating to wells.

16. Well orders.
17. Contravention of well orders.
18. Powers of Director.

Division 3—Duties relating to wells

19. Duty to maintain wells.
20. Control of abstraction and prevention of waste.
21. Notification of water struck in construction of wells.
22. Requirement to supply information to Director.

Division 4—The Tribunal

23. Establishment of Tribunal.
24. Appeals.
25. Proceedings before the Tribunal.

PART IV

MISCELLANEOUS

26. Orders for prevention of pollution of groundwater.
27. Deleterious matter affecting groundwater.
28. Director to be notified of changes in particulars.
29. Defence for owner or occupier in certain circumstances.
30. Power of authorized persons to enter land, &c.
31. Offence to obstruct, &c., an authorized person.
32. Indemnity for Director and other persons.
33. Regulations.
34. Repeal of *Underground Water Act 1966*.

MARGINAL NOTES

The following abbreviations are used in the marginal notes to this Bill:—

S.A.—Water Resources Act, 1976 (South Australia, No. 19 of 1976)

U.K.—Water Act 1945 (United Kingdom, 8 & 9 Geo. VI c. 42)

1966—*Underground Water Act* 1966 (Tasmania, No. 59 of 1966)

1973—*Environment Protection Act* 1973 (Tasmania, No. 34 of 1973)



GROUNDWATER ACT 1985

—
No. 84 of 1985
—

.....

AN ACT to provide for the assessment, conservation, and development of, and the prevention of pollution of, groundwater in Tasmania, for the control and management of its utilization and quality, and for other purposes.

[Royal Assent 1 November 1985]

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

PART I

PRELIMINARY

1—This Act may be cited as the *Groundwater Act 1985*.

Short title.

2—(1) This section and section 1 shall commence on the day on which this Act receives the Royal assent.

Commencement.

(2) Except as provided in subsection (1), this Act shall commence on such day as may be fixed by proclamation.

Interpretation.

- 3**—(1) In this Act, unless the contrary intention appears—
- “ animal ” includes all members of the animal kingdom;
 - “ authorized person ” means an officer of the Department of Mines who is authorized in writing by the Director as mentioned in section 30 (1);
 - “ the Committee ” means the Groundwater Advisory Committee appointed under section 7;
 - “ the Director ” means the Director of Mines;
 - “ groundwater ” means any water contained in, or occurring in, a geological formation that is capable of yielding to a well;
 - “ the Minister ” means the Minister having the administration of the *Mining Act* 1929;
 - “ permit ” means a permit granted and in force under section 12;
 - “ pollution ” means any direct or indirect contamination or alteration of groundwater that —
 - (a) affects adversely any use of groundwater that is conducive to human benefit, welfare, safety, or health; or
 - (b) causes a condition that is detrimental or hazardous, or likely to be detrimental or hazardous, to—
 - (i) human benefit, welfare, safety, or health;
 - (ii) animals, plants, or microbes; or
 - (iii) property;
 - “ the Tribunal ” means the Tribunal established under section 23;
 - “ waste ” includes any matter or thing, whether in the solid, liquid, or gaseous state which, if added to any water, may cause any interference with the physical, chemical, or biological properties of water which may render it less fit for any purpose for which it may be used by man, animal, plant, or other organism and includes any sewage, septic tank effluents, effluent from irrigated lands, rubbish, refuse, garbage, and materials used or produced in, or by,

any manufacturing processes, mining, or quarrying, agriculture, commerce, or any other trade, industrial undertaking, or activity;

“well” means an excavation or borehole that is deeper than 3 metres below the surface of the earth and made or used for the purpose of extracting groundwater but does not include a storage works where the surface area of the water is more than 100 square metres and the depth of the water is less than 5 metres.

(2) A reference in this Act to the occupier of any land includes a reference to a person who occupies the land, or any part of the land, jointly or in common with any other person and to a person who occupies part of the land.

4—Where 2 or more persons carry on a business in partnership on land on which a well is situated, compliance with a provision of this Act by one of those persons shall be deemed to be compliance with that provision by each member of the partnership. Application of Act to partnerships.

5—This Act binds the Crown not only in right of Tasmania but also, so far as the legislative power of Parliament permits, binds the Crown in all of its other capacities. Crown bound by this Act. S.A. s. 7.

6—Except as provided by this Act, a person who has an estate or interest in land may take groundwater beneath his land for his reasonable requirements. General right to take groundwater.

PART II

ADMINISTRATION

Division 1—The Groundwater Advisory Committee

7—(1) The Minister shall appoint an advisory committee to be known as the Groundwater Advisory Committee. Groundwater Advisory Committee.

(2) The functions of the Committee are to make recommendations to the Minister and the Director on—

- (a) any matter relating to the performance of their functions or the exercise of their powers under this Act;
- (b) any matter relating to groundwater that affects, or is likely to affect, the other water resources of Tasmania; and

(c) any other matter relating to groundwater, and to investigate and report to the Minister on such matters relating to groundwater as the Minister may refer to it.

(3) The Committee shall consist of 6 members of whom—

(a) one shall be an officer of the Department of Mines nominated by the Director;

(b) one shall be a member or officer of the Rivers and Water Supply Commission appointed on the recommendation of the Minister having the administration of the *Water Act 1957*;

(c) one shall be an officer of the Department of Agriculture, appointed on the recommendation of the Minister for Primary Industry;

(d) one shall be an officer of the Department of the Environment, appointed on the recommendation of the Minister having the administration of the *Environment Protection Act 1973*;

(e) one shall be a person who the Minister is satisfied represents the interests of well drillers; and

(f) one shall be a person who the Minister is satisfied represents the interests of well users.

(4) The Minister shall appoint a member of the Committee to be Chairman of the Committee.

(5) The Committee may obtain assistance, information, and advice from any person.

(6) The Minister or the Chairman may convene meetings of the Committee to be held at such times and places as are notified to the members of the Committee by the Minister or the Chairman.

(7) The Chairman shall preside at all meetings of the Committee at which he is present.

(8) If the Chairman is not present at a meeting of the Committee, the members of the Committee present shall elect one of their number to preside at the meeting.

(9) A majority of members of the Committee shall form a quorum for the purposes of any meeting of the Committee and any duly convened meeting at which a quorum is present shall be competent to transact any business of the Committee.

(10) Subject to this section and to the regulations, the procedure for the calling of meetings of the Committee and for the conduct of business at those meetings shall be as determined by the Committee.

Division 2—Duties of Director

8—(1) It is the duty of the Director, within the limits of his powers, to obtain and collate as much information as possible as to groundwater in Tasmania and to ensure— Duties of Director.

- (a) that a high quality of groundwater is maintained;
- (b) that the supplies of groundwater are not unduly depleted;
- (c) that groundwater is utilized equitably in the best interests of Tasmania; and
- (d) that proper standards are observed in the drilling of wells for the taking of groundwater.

(2) Where the exercise of any power of the Director under this Act is likely to affect—

- (a) the flow or availability of any water other than groundwater; or
- (b) the exercise of a commissional water right in force under section 94 of the *Water Act* 1957,

the Director shall first consult with the Rivers and Water Supply Commission as to the effect of the exercise of that power.

(3) Where the exercise of any power of the Director under this Act is likely to affect the exercise of any power of the Director of Environmental Control under the *Environment Protection Act* 1973, the Director shall first consult with the Director of Environmental Control as to the effect of the exercise of that power.

(4) Where the Director consults with the Rivers and Water Supply Commission or the Director of Environmental Control under this section, the Director shall also refer the matter to the Committee for its consideration.

PART III

GROUNDWATER

Division 1—Proclaimed regions

Proclaimed
regions.
S.A. s. 41.

9—(1) The Governor may, by proclamation, declare that any area in Tasmania specified in the proclamation shall be a proclaimed region for the purposes of this Act.

(2) A proclamation under subsection (1)—

(a) shall be made on the recommendation of the Minister and of the Minister having the administration of the *Water Act 1957*; and

(b) shall be published in full in the *Gazette* notwithstanding section 5 of the *Rules Publication Act 1953*.

(3) The Minister shall, within one month after a proclamation is made under subsection (1) that an area of Tasmania is a proclaimed region—

(a) give public notification of the proclamation in a newspaper circulating in that area; and

(b) give such other notification of the proclamation as he thinks fit to all owners and occupiers of lands that are affected by the proclamation or such of them as he can with reasonable diligence ascertain.

Existing wells
in proclaimed
regions.

10—(1) Where, at the time when a proclamation under section 9 takes effect, there is a well in the region to which the proclamation relates, the owner and occupier of the land on which the well is situated shall, within one month after the date on which the proclamation so takes effect, notify the Director, in the prescribed form, of that fact and shall describe the location of the well, or of each such well, on that land.

Penalty: \$200.

(2) It is sufficient compliance with subsection (1) if either the owner or occupier of the land on which the well is situated complies with that subsection.

Prohibition on
the unlawful
construction of
wells, &c.
S.A. s. 42.

11—(1) A person shall not, unless he is authorized by a permit, construct, deepen, or enlarge a well in a proclaimed region or withdraw or take any water from a well in a proclaimed region.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction—

(a) in the case of a first offence, to a penalty not exceeding \$1 500; and

(b) in the case of a subsequent offence, to a penalty not exceeding \$3 000.

12—(1) Subject to this Act, the Director may, of his own motion or on application by any person in the prescribed manner and form, grant to that person a permit in the prescribed form to construct, deepen, or enlarge a well, or to take water from a well, in a proclaimed region.

Grant of permit to withdraw or use water from wells.
S.A. s. 43.

(2) A permit is subject to such terms and conditions as are specified in the permit and, if an order is in force under section 16 (1) in respect of the well to which the permit relates, is also subject to the provisions of that order.

(3) The Director may, with the consent of the holder of a permit, amend or modify the terms and conditions of that permit.

(4) A permit to take water from a well in a proclaimed region shall be in force for such period not exceeding 3 years as is specified in the permit but the Director shall, of his own motion and at least 2 months before the expiration of the permit, renew the permit on such terms and conditions as are specified in the permit as so renewed.

(5) The holder of a permit may surrender the permit by delivering it to the Director together with a notification in writing to the effect that the permit is being surrendered.

(6) The Director shall, on receipt of a permit and notification under subsection (5), cancel the permit.

13—(1) The holder of a permit shall not contravene or fail to comply with, or suffer or permit any person to contravene or fail to comply with, any term or condition of the permit.

Breach of term or condition of permit.
S.A. s. 44.

Penalty: \$1 000.

(2) Where a person is convicted of an offence that is a contravention of, or failure to comply with, subsection (1), the Director may, by notice in writing served personally or by registered post on that person, revoke that permit and on that service that permit has no further force or effect.

14—Where the Director is satisfied that the holder of a permit has contravened or failed to comply with, or has suffered or permitted any person to contravene or fail to comply with, any term or condition of that permit or any other permit under this Act previously held by that person, the Director may, by order served on that person—

Suspension, &c., of permits.
S.A. s. 45.

(a) revoke that permit;

- (b) suspend that permit for such period as is specified in the order; or
 - (c) amend or modify the terms and conditions of that permit in such manner as is specified in the order,
- and that order has effect according to its tenor.

Division 2—Wells

Notification
of particulars
relating to
wells.
S.A. s. 47.

15—(1) The Director may, by notice in accordance with subsection (2), require every owner and occupier of land within an area specified in the notice to provide the Director, within such time as is specified in the notice, with such information as is so specified in relation to any well situated on that land.

(2) A notice under subsection (1) shall be given by public notification in the *Gazette* and in a newspaper circulating in the area in which the land is situated.

(3) An owner or occupier of land to whom a notice referred to in subsection (1) applies shall not refuse or fail to comply with a provision of that notice.

Penalty: \$500.

Well orders.
S.A. s. 53.

16—(1) Notwithstanding any other provision of this Act, where the Director is satisfied that any act or omission by a person in relation to a well may result, directly or indirectly, in the pollution or deterioration, inequitable distribution, loss, wastage, or undue depletion of any waters, the Director may, by order served on the owner or occupier of the land on which the well is situated, direct that owner or occupier to do any one or more of the following:—

- (a) to close and shut off the supply of groundwater from the well in the manner specified in the order;
- (b) to restrict or limit the amount of water taken from the well to the extent specified in the order;
- (c) to install and maintain a suitable meter to record the amount of water taken from the well;
- (d) to discontinue the use of the well, either permanently or for a period specified in the order;
- (e) to take all such action as is specified in the order to prevent any waste from gaining access to the well or any pollution of the water in it;
- (f) to close, or partly or entirely to block or backfill, the well in the manner specified in the order;

- (g) to use the water withdrawn from the well for such purposes as are specified in the order;
- (b) to carry out such repairs or modifications to the well as are specified in the order.

(2) Except in a case of urgent necessity, the Director shall, before exercising any of his powers under subsection (1), consult with the Rivers and Water Supply Commission, the Director of Environmental Control, and, if practicable to do so, with the owner or occupier of the land on which the well is situated, as to the effect of the exercise of that power.

17—A person shall not contravene, or fail to comply with, or suffer or permit any person to contravene, or fail to comply with, any provision of an order under section 16. Contravention of well orders. S.A. s. 54.

Penalty: \$2 000 and, in the case of a continuing offence, a further penalty not exceeding \$200 for each day during which the offence continues.

18—(1) Where an order under section 16 has been contravened or has not been complied with in whole or in part within the period, if any, specified in the order or within a reasonable period, an authorized person may enter any land on which the well to which the order relates is situated and cause such works as are necessary to be done to ensure complete compliance with the order. Powers of Director. S.A. s. 55.

(2) The Director may recover in any court of competent jurisdiction as a debt due to the Crown from the person in relation to whom the order was made the reasonable costs of the works to which the order relates.

Division 3—Duties relating to wells

19—An owner or occupier of land on which a well is situated shall at all times maintain that well in such a condition that it does not constitute a hazard to human safety reasonably foreseeable to that owner or occupier. Duty to maintain wells. S.A. s. 56.

Penalty: \$5 000 and, in the case of a continuing offence, a further penalty not exceeding \$500 for each day during which the offence continues.

20—(1) A person who takes groundwater shall not— Control of abstraction and prevention of waste. U.K. s. 14.

- (a) cause or allow that groundwater to be wasted except for the purpose of testing the extent or quality of the supply or cleaning, sterilizing, examining, or repairing a well; or

(b) take groundwater in excess of his reasonable requirements.

Penalty: \$400 and, in the case of a continuing offence, a further penalty not exceeding \$50 for each day during which the offence continues.

(2) Subsection (1) does not apply in relation to any groundwater to the extent that it consists of a flow of water rising or issuing naturally out of the earth.

(3) In a prosecution for an offence under subsection (1) (a), it is a defence that—

(a) the groundwater to which the charge relates was interfering, or threatening to interfere, with the execution or operation of any underground works (whether a water-works or not);

(b) the groundwater was wasted only so far as necessary to enable the works to be executed or operated; and

(c) no other method of disposing of the groundwater was at the relevant time reasonably practicable.

(4) On conviction of a person for an offence under this section, the court may order that any well or other works to which the offence relates shall be effectively sealed or make such other order as appears to the court to be necessary to prevent wastage of groundwater.

(5) If a person against whom an order is made under subsection (4) fails to comply with the order, the court may, on the application of the Director, authorize the Director to take such steps as may be necessary to execute the order.

(6) The expenses incurred by the Director in executing an order under subsection (5) may be recovered by the Director as a debt due to the Crown in any court of competent jurisdiction from the person convicted.

21—(1) Where water is struck in the construction of a well, the person constructing that well shall, as soon as practicable after the water is struck, inform the Director in writing and in the prescribed form of the fact and of the depth of the well at which the water was so struck.

(2) A person who constructs a well shall, as soon as practicable after completion of that construction, inform the Director in writing and in the prescribed form of the level of the water, if any, in the well and provide the Director with the prescribed particulars relating to the water, cuttings, and other materials obtained during the construction of the well.

(3) The Director may give directions to a person constructing a well requiring that any water, cuttings, or other materials obtained in the construction of a well be preserved for such period, in such place, and in such manner as may be specified in the directions, and the person constructing that well shall ensure that those directions are complied with.

(4) The directions referred to in subsection (3) shall be given in writing and may be so given to any person who is constructing the well or to the person who has informed the Director as mentioned in subsection (1).

(5) Nothing in subsection (3) requires the preservation of any material that is required for assay, or, subject to subsection (6), the preservation of any water, cuttings, or other materials for a period of longer than 3 months.

(6) It shall be sufficient compliance with any directions given under subsection (3) requiring any water, cuttings, or other materials to be preserved if that water, those cuttings, or those other materials are delivered to the Director.

(7) Where any water, cuttings, or other materials are required to be preserved under this section, the Director, or any other person authorized by him in writing, may examine that water or those cuttings or other materials and take specimens of it or them for the purposes of assay or treatment.

(8) Where the person constructing a well causes or allows an analysis to be made of any water obtained from that well he shall, as soon as practicable after receiving a report of the results of the analysis, forward a copy of the report to the Director.

(9) A person who fails to comply with a provision of this section is guilty of an offence and is liable on summary conviction to a penalty of \$500.

Requirement
to supply
information to
Director.

22—(1) Without prejudice to the provisions of section 21, the Director may, by notice in writing, require—

(a) any person who pursuant to that section has given information to him in respect of a well; or

(b) any person who constructs a well,

to supply him with such information with respect to the well or the construction of the well as may be specified in the notice.

(2) The person on whom a notice under subsection (1) is served shall supply the Director with the information specified in the notice.

(3) A person who contravenes or fails to comply with the provisions of a notice served on him under this section is guilty of an offence and is liable on summary conviction to a penalty of \$500.

Division 4—The Tribunal

Establishment
of Tribunal.
S.A. s. 17.

23—(1) For the purposes of this Act there shall be a Tribunal consisting of 3 members, appointed by the Minister, of whom—

(a) one shall be a legal practitioner of at least 7 years' standing;

(b) one shall be a civil engineer; and

(c) one shall be an earth scientist having special knowledge of groundwater.

(2) A person who is a member of the Groundwater Advisory Committee is not eligible to be, or to remain, a member of the Tribunal.

Appeals.
S.A. s. 64.

24—(1) An appeal to the Tribunal may be brought—

(a) against the refusal to grant a permit;

(b) against the imposition of any term or condition in respect of any permit; or

(c) against any order made under this Act, except in the case of an order made by a court, or against the imposition of any term or condition of such an order.

(2) Except in the cases referred to in subsection (1), no appeal may be brought to the Tribunal.

(3) An appeal to the Tribunal shall be instituted in the prescribed manner and form.

- (4) Subject to this Act, the Tribunal may—
- (a) uphold the decision appealed against;
 - (b) substitute for the decision appealed against the decision that, in the opinion of the Tribunal, the Director should have made in the first instance; or
 - (c) refer the case in relation to which the decision was made back to the Director for reconsideration of the decision with or without directions as to any new matters that the Director shall take into account on that reconsideration.

25—(1) The Tribunal shall give to any person who is a party to proceedings instituted before the Tribunal reasonable notice of the time and place at which it intends to hear those proceedings, and shall afford any such person a reasonable opportunity to call or give evidence, to examine or cross-examine witnesses, and to make submissions to the Tribunal.

Proceedings
before the
Tribunal.
S.A. s. 65.

(2) If a person to whom notice has been given pursuant to subsection (1) does not attend at the time and place fixed by the notice, the Tribunal may hear the proceedings in his absence.

(3) The Tribunal may, if it considers it expedient to do so, grant leave to any person who is, or may be, affected by the subject-matter of an appeal to the Tribunal to appear at the hearing of the appeal and a person so granted leave to appear is, for the purposes of this section, deemed to be a party to the proceedings.

(4) A party to any proceedings before the Tribunal is entitled to appear personally or by counsel or other representative, but no person other than—

- (a) a legal practitioner; or
- (b) a geologist, hydrologist, or an engineer who in the opinion of the Tribunal has special knowledge of groundwater, is entitled to any fee or reward for that representation.

(5) Subsection (4) does not apply in relation to an interpreter assisting a person in the presentation of his case if his fee does not exceed an amount fixed by the Tribunal, either generally or in a particular case.

(6) In any proceedings the Tribunal shall act according to equity, good conscience, and the substantial merits of the case without regard to technicalities and legal forms and may inform itself on any matter in such manner as it thinks fit, without being bound by the rules of evidence.

(7) Without limiting the generality of subsection (6), the Tribunal may, in any proceedings, receive in evidence any transcript of evidence in any other proceedings before the Tribunal and draw any conclusions of fact from that transcript that it considers proper.

(8) The Tribunal may, if it considers there are special reasons for doing so, order that a party to any proceedings before it pay the costs of another party to the proceedings.

PART IV

MISCELLANEOUS

Orders for prevention of pollution of groundwater. Cf. 1973, s. 43 (1).

26—(1) Subject to subsection (3), the Director may, by order served on the owner or occupier of any land, prevent any use of land that, in the opinion of the Director, would, or would be likely to—

(a) affect the quality of groundwater; or

(b) be detrimental to any use of any groundwater that is conducive to human benefit, welfare, safety, or health.

(2) Unless there is an urgent necessity to exercise any of his powers under subsection (1), the Director shall, before doing so, consult with the Director of Environmental Control and, if practicable to do so, with the owner or occupier of the land as to the effect of the exercise of that power.

(3) A person on whom an order is served under subsection (1) shall not contravene or fail to comply with a provision of that order.

Penalty: \$2 000 and, in the case of a continuing offence, a further penalty not exceeding \$200 for each day during which the offence continues.

Deleterious matter affecting groundwater. 1966, s. 11.

27—(1) A person shall not, by any act or omission, introduce, or suffer or permit any person to introduce, into a hole, cavity, or excavation in the earth, or in a works for the extraction of groundwater, any waste or other matter that, on being so introduced, causes, or is likely to cause, the pollution of groundwater.

Penalty: \$5 000 and, in the case of a continuing offence, a further penalty not exceeding \$500 for each day during which the offence continues.

(2) Subsection (1) does not apply to, or in relation to, the carrying out of any work or operation that is carried out—

- (a) in order to comply with this Act; or
- (b) with the approval in writing of the Director.

28—(1) Where the holder of a permit sells, leases, or disposes of the whole or any part of the land to which the permit relates, that person shall, not later than 28 days after that event, provide the Director in writing and in the prescribed form with full particulars of that sale, lease, or disposal.

Director to be notified of changes in particulars.

(2) A holder of a permit who fails to comply with subsection (1) is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$200.

29—In any proceedings against an owner or occupier of land for an offence against section 15, 17, 22, or 26, it is a defence that the defendant did not know, and could not by the exercise of reasonable diligence have known, of the act or omission constituting the offence.

Defence for owner or occupier in certain circumstances.

30—(1) The Director may, in writing, authorize an officer of the Department of Mines to enter land or premises for the purposes of this section or section 18.

Power of authorized persons to enter land, &c.

(2) Subject to this section, an authorized person may, on giving notice in accordance with subsection (5), enter land or premises at any reasonable time for the purpose of—

- (a) examining any water, cuttings, or other materials required to be preserved under section 21 (3);
- (b) ascertaining the location of, or inspecting a works used for, or in connection with, the taking of groundwater;
- (c) inspecting a works, or the construction or modification of a works, used, or to be used, for the taking of groundwater;
- (d) ascertaining whether, or in what quantity, groundwater is being taken;
- (e) carrying out such operations on a well to determine the condition of the well or of the soil, rock, or other water bearing material in which the well is situated or of waters as the Director may authorize and specify in a notice under this subsection;

- (f) taking any other action or executing any other work authorized or required by this Act to be taken or executed by the Minister or the Director in connection with the performance of his functions, or the exercise of his powers, under this Act; or
- (g) gaining access, if it is necessary to do so, to some other premises for a purpose authorized by this section.

(3) Subject to this section, an authorized person who has a reasonable belief that there is or has been on, or in connection with, any land or premises any contravention, or failure to comply with, the provisions of this Act or any other law relating to the taking of water or the protection of the environment may enter that land or those premises at any reasonable time for the purpose of ascertaining whether in fact there is, or was, any such contravention or failure.

(4) In a case of urgent necessity, an authorized person may enter **land or premises without notice** and at any time if the entry is made during a period of 48 hours after the Director or, as the case may require, the authorized person first becomes aware of the circumstances requiring the urgent entry.

(5) An authorized person shall—

- (a) except as provided in section 18 and in subsection (4), give 48 hours' notice of the intended entry to the owner or occupier of the land or premises as provided by this section; and
- (b) if so required by the owner or occupier, produce the authority in writing referred to in subsection (1) before entry on the **land or premises**.

(6) An authorized person may take with him such other persons as may be necessary for the purpose of the entry on the land or premises and shall leave the land or premises as effectively secured against trespassers as he found the land or premises.

(7) A person who, pursuant to subsection (6), accompanies an authorized person when entering land or premises has the same power to enter that land or those premises as is conferred by this section on that authorized person.

31—Any person who—

- (a) refuses or intentionally delays the admission to any land or premises of an authorized person in the exercise by him of his powers under this Act;

- (b) fails to comply with a request of an authorized person made in the exercise of his powers under this Act when it is within his power to comply with the request; or
- (c) intentionally obstructs, harasses, or interferes with an authorized person in the exercise of his powers under this Act,

is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$1 000.

32—The Director, an authorized person, or a member of the Tribunal shall not incur any personal liability in respect of any act, matter, or thing done, or omitted to be done, in good faith in the execution, or purported execution, of the provisions of this Act. Indemnity for Director and other persons.

33—(1) The Governor may make regulations for the purposes of this Act. Regulations. S.A. s. 79.

(2) Without limiting the generality of subsection (1), the regulations may—

- (a) provide for, and prescribe fees for, the grant of a permit or for the doing of any other act or thing under this Act and provide for the recovery of those fees;
- (b) regulate or prohibit any matter or thing in connection with the disposal, dispersement, or discharge of waste;
- (c) prescribe the powers and functions of the Committee, either generally or in a particular area; and
- (d) provide for remuneration and allowances, as may be specified in the regulations or determined by the Minister, to be paid to the members of the Committee referred to in section 7 (3) (e) and (f) and the members of the Tribunal.

(3) The regulations may be made subject to such conditions, or be made so as to apply differently according to such facts and circumstances, as may be specified in the regulations, or according to such limitations or restrictions, whether as to time or circumstance or otherwise, as may be so specified.

(4) Regulations under this section may provide that it is an offence, punishable on summary conviction, for a person to contravene, or fail to comply with, any of the regulations and may provide

in respect of any such offence for the imposition of a penalty not exceeding \$500 and, in the case of a continuing offence, a further penalty not exceeding \$50 for each day during which the offence continues.

Repeal of
*Underground
Water Act*
1966.

34—(1) The *Underground Water Act* 1966 is repealed.

(2) A person who ceases to hold an appointment by reason of subsection (1) is not entitled to be paid any remuneration or compensation by reason of his ceasing to hold that office.