

BUITENGEWONE



EXTRAORDINARY

Staatskoerant

VAN DIE UNIE VAN SUID-AFRIKA

THE UNION OF SOUTH AFRICA

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KANTOOR VAN DIE EERSTE MINISTER.

Onderstaande Goewermentskennisgewing word ter algemene inligting gepubliseer:

No. 1271.]

[13 Julie 1956.

by word bekend gemaak dat dit Sy Eksellensie die Goewerneur-generaal behaag het om sy goedkeuring te heg aan die onderstaande Wet, wat hierby ter algemene inligting gepubliseer word:

No. 54 van 1956: Waterwet, 1956

BLADSY

2

OFFICE OF THE PRIME MINISTER.

The following Government Notice is published for general information:

No. 1271.]

[13th July, 1956.

It is hereby notified that His Excellency the Governor-General has been pleased to assent to the following Act, which is hereby published for general information:

No. 54 of 1956: Water Act, 1956

PAGE

3

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No. 54, 1956.]

WET

Tot samevatting en wysiging van die wette in die Unie van krag met betrekking tot die beheer, bewaring en gebruik van water vir huishoudelike, landbou-, stedelike en nywerheidsdoeleindes.

(Engelse teks deur die Goewerneur-generaal geteken.)

(Goedgekeur op 12 Junie 1956.)

DIT WORD BEPAAL deur Haar Majesteit die Koningin, die Senaat en die Volksraad van die Unie van Suid-Afrika, as volg:—

Woord-
omskrywing.

1. Tensy uit die samehang anders blyk, beteken in hierdie Wet—

- (i) „besproeiingsdistrik” ’n gebied wat kragtens artikel *vier-en-sewentig* tot ’n besproeiingsdistrik verklaar is, en ook so ’n gebied soos kragtens sub-artikel (1) van artikel *ses-en-sewentig* hersaamgestel deur ’n gedeelte daarvan uit te sluit of ’n addisionele gebied daarby in te sluit, en ’n gedeelte van ’n bestaande besproeiingsdistrik wat ingevolge genoemde sub-artikel as ’n afsonderlike besproeiingsdistrik ingestel is, hetsy alleen of tesame met enige ander gebied, met inbegrip van so ’n gebied wat deel van ’n bestaande besproeiingsdistrik uitmaak; (vii)
- (ii) „besproeiingsraad” ’n raad deur artikel *nege-en-sewentig* ingestel; (vi)
- (iii) „bestaande reg”—
 - (a) enige reg deur paragraaf (a) of (b) van artikel *vyf-en-twintig* beskerm;
 - (b) enige reg op water deur enigiemand verkry by wyse van serwituutakte, ooreenkoms of bevel van ’n bevoegde hof; en
 - (c) enige ander wettig verkreeë reg op water in of op ’n openbare stroom; (iv)
- (iv) „departement” die Besproeiingsdepartement ingestel by artikel *drie* van die „Besproeiings- en Waterbewarings Wet, 1912” (Wet No. 8 van 1912), wat vanaf die inwerkingtreding van hierdie Wet as die Departement van Waterwese bekend staan; (ii)
- (v) „direkteur” die Direkteur van Waterwese; (iii)
- (vi) „eienaar”, met betrekking tot grond, die persoon wat in ’n registrasiekantoor van aktes as die eienaar of besitter daarvan geregistreer is, en ook die Staat, die kurator van ’n insolvente boedel, ’n beredderaar of kurator ingevolge die Boere-Bystandswet, 1935 (Wet No. 48 van 1935), gekies of aangestel, die likwidateur van ’n maatskappy wat ’n eienaar is, die wetlike verteenwoordiger van ’n eienaar wat oorlede is of wat minderjarig of kranksinnig of andersins onbevoeg is, en die verteenwoordiger in die Unie van ’n eienaar wat uit die Unie afwesig is of van wie nie bekend is waar hy hom bevind nie, en, met betrekking tot grond wat ingevolge die wette op nedersetting aan iemand toegeken of verhuur is onderworpe aan ’n reg om bedoelde grond te koop, of tot Kroongrond wat deur aankoop verkry is, maar ten opsigte waarvan transport nog nie aan die koper gegee is nie, die persoon aan wie daardie grond aldus toegeken, verhuur of verkoop is; (xii)
- (vii) „gebied” ook enige aantal gebiede, hetsy aangrensend al dan nie; (i)
- (viii) „gebruik vir landboudoeleindes”, met betrekking tot water, gebruik vir die besproeiing van grond en ook gebruik, deur ’n oewereienaar of enigiemand anders wat ’n reg op die gebruik van water vir die besproeiing van grond verkry het, vir huishoudelike doeleindes of vir doeleindes van waterriolering of om vee te laat suip of tuine nat te maak; (xx)
- (ix) „gebruik vir nywerheidsdoeleindes”, met betrekking tot water, gebruik vir fabrieks-, meganiese of mynboudoeleindes of vir kragontwikkeling, of gebruik deur die Suid-Afrikaanse Spoorweg- en Hawensadministrasie vir spoorwegdoeleindes, en ook gebruik vir huishoudelike doeleindes of vir doeleindes van

No. 54, 1956.]

ACT

To consolidate and amend the laws in force in the Union relating to the control, conservation and use of water for domestic, agricultural, urban and industrial purposes.

(English text signed by the Governor-General.)
(Assented to 12th June, 1956.)

BE IT ENACTED by the Queen's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

1. In this Act, unless the context otherwise indicates— Definitions.
- (i) "area" includes any number of areas, whether or not contiguous; (vii)
 - (ii) "department" means the Irrigation Department established by section *three* of the Irrigation and Conservation of Waters Act, 1912 (Act No. 8 of 1912), which shall as from the commencement of this Act be known as the Department of Water Affairs; (iv)
 - (iii) "director" means the Director of Water Affairs; (v)
 - (iv) "existing right" means—
 - (a) any right protected by paragraph (a) or (b) of section *twenty-five*;
 - (b) any right to water acquired by any person by deed of servitude, agreement or order of a competent court; and
 - (c) any other lawfully acquired right to water in or upon a public stream; (iii)
 - (v) "Government water work" means a water work constructed or maintained or proposed to be constructed or maintained by, or under the control of the Government, and includes water impounded and stored in such work, but does not include a water work constructed by the Minister under section *fifty-seven*; (xxi)
 - (vi) "irrigation board" means a board established by section *seventy-nine*; (ii)
 - (vii) "irrigation district" means any area declared under section *seventy-four* to be an irrigation district, and includes any such area as reconstituted under sub-section (1) of section *seventy-six* by excluding any portion thereof or including any additional area therein, and any portion of an existing irrigation district constituted as a separate irrigation district under the said sub-section, either alone or together with any other area, including any such area forming part of an existing irrigation district; (i)
 - (viii) "local authority" means—
 - (a) any body contemplated by paragraph (vi) of section *eighty-five* of the South Africa Act, 1909;
 - (b) any regional water supply corporation constituted under section *seven* of the Water Supply Ordinance, 1945 (Ordinance No. 21 of 1945), of Natal, or any other institution which has powers similar to such a corporation in respect of the supply of water to other local authorities, the Government (including the South African Railways and Harbours Administration and any provincial administration), or other persons within its area of jurisdiction;
 - (c) any water board constituted in terms of section *one hundred and eight*; (xviii)
 - (ix) "Minister" means the Minister of Water Affairs; (xi)
 - (x) "natural channel" means any channel, other than an artificial channel or the channel of a public stream, used to convey water from one part of an area declared to be a Government water control area in terms of sub-section (1) of section *fifty-nine*, to any other part of that area or from one part of an irrigation district to any other part of that irrigation district; (xii)
 - (xi) "normal flow", in relation to a public stream, and subject to the provisions of sub-section (2) of section *fifty-three*, means the quantity of public water actually

- waterriolering of as suiping vir vee of om strate en tuine nat te maak, vir sover dit met gebruik vir nywerheidsdoeleindes in verband staan; (xxi)
- (x) „gebruik vir stedelike doeleindes”, met betrekking tot water, gebruik in ’n gebied binne die regsbevoegdheid van ’n plaaslike bestuur, vir doeleindes waarvoor water gewoonlik deur ’n plaaslike bestuur of deur die inwoners van so ’n gebied gebruik word, en ook gebruik vir huishoudelike doeleindes of vir doeleindes van waterriolering of om tuine nat te maak of om strate nat of skoon te maak of vir nywerheidsdoeleindes; (xxii)
- (xi) „Minister” die Minister van Waterwese; (ix)
- (xii) „natuurlike bedding” enige kanaal, uitgesonderd ’n kunsmatige kanaal of die bedding van ’n openbare stroom, wat gebruik word vir die vervoer van water van een deel van ’n gebied wat kragtens sub-artikel (1) van artikel *nege-en-vyftig* tot ’n Staatswaterbeheergebied verklaar is, na enige ander deel van daardie gebied, of van een deel van ’n besproeiingsdistrik na ’n ander deel van daardie besproeiingsdistrik; (x)
- (xiii) „normale stroming”, met betrekking tot ’n openbare stroom, en behoudens die bepalinge van sub-artikel (2) van artikel *drie-en-vyftig*, die hoeveelheid openbare water wat werklik en sigbaar in daardie openbare stroom vloei en wat deur regstreekse besproeiing uit daardie stroom, hetsy deur middel van vore of andersins, maar sonder opgaring, vir die besproeiing van oewergrond aan bedoelde stroom nuttig aangewend kan word; (xi)
- (xiv) „oewereienaar” die eienaar van oewergrond; (xviii)
- (xv) „oewergrond”, met betrekking tot ’n openbare stroom—
- (a) grond wat besit word uit hoofde van ’n oorspronklike grondbrief of oordrag van so ’n grondbrief, of uit hoofde van ’n sertifikaat van titelbewys, hetsy opgemeet in een stuk of meer as een stuk, waarop of langs enige gedeelte van ’n grens waarvan ’n openbare stroom bestaan, en enige onderverdeling van sodanige grond; en
- (b) Kroongrond ten opsigte waarvan geen oorspronklike grondbrief verleen is nie, maar wat, uit hoofde van die ligging daarvan met betrekking tot ’n openbare stroom, ingevolge die bepalinge van paragraaf (a) oewergrond aan daardie stroom sou gewees het indien so ’n grondbrief verleen was; (xvii)
- (xvi) „openbare stroom” ’n natuurlike stroom water wat in ’n bekende en bepaalde bedding vloei, ongeag of daardie bedding gedurende enige tyd van die jaar droog is, en ongeag of sy konformasie op kunsmatige wyse verander is, indien die water daarin vir gemeenskaplike gebruik vir besproeiingsdoeleindes op twee of meer stukke grond wat oewergrond daaraan is en wat die onderwerp van afsonderlike oorspronklike grondbriewe is, of op een so ’n stuk en ook op Kroongrond wat oewergrond aan bedoelde stroom is, aangewend kan word: Met dien verstande dat ’n stroom wat slegs met betrekking tot ’n gedeelte van sy loop aan voormelde vereistes voldoen, geag word slegs ten opsigte van daardie gedeelte ’n openbare stroom te wees; (xiv)
- (xvii) „openbare water” enige water wat in die bedding van ’n openbare stroom vloei of daarin aangetref word of daaruit afkomstig is, hetsy sigbaar al dan nie; (xv)
- (xviii) „plaaslike bestuur”—
- (a) enige liggaam in paragraaf (vi) van artikel *vyf-en-tagtig* van die „Zuid-Afrika Wet, 1909”, bedoel;
- (b) enige streekswatervoorsieningskorporasie kragtens artikel *sewe* van die Ordonnansie op Watervoorsiening, 1945 (Ordonnansie No. 21 van 1945), van Natal, in die lewe geroep, of enige ander instelling wat met betrekking tot die voorsiening van water aan ander plaaslike besture, die Regering (met inbegrip van die Suid-Afrikaanse Spoorwag- en Hawensadministrasie en ’n provinsiale administrasie), of ander persone binne sy regsgebied, dergelike bevoegdhede as so ’n korporasie besit;
- (c) enige waterraad kragtens artikel *honderd-en-agt* ingestel; (viii)
- (xix) „private water” alle water wat op natuurlike wyse op enige grond ontspring of val of op natuurlike wyse

and visibly flowing in that public stream which, under a system of direct irrigation from that stream, whether by furrows or otherwise, but without the aid of storage, can be beneficially used for the irrigation of land riparian to such stream; (xiii)

- (xii) "owner", in relation to land, means the person registered in a deeds registry as the owner or holder thereof, and includes the State, the trustee in an insolvent estate, a liquidator or trustee elected or appointed under the Farmers' Assistance Act, 1935 (Act No. 48 of 1935), the liquidator of a company which is an owner, the legal representative of any owner who has died or is a minor or of unsound mind or otherwise under disability and the agent in the Union of an owner who is absent from the Union or whose whereabouts are unknown, and, in relation to land which has been allotted or leased to any person under the laws relating to land settlement, subject to a right to purchase such land, or to Crown land which has been acquired by purchase but in respect of which title has not yet been given to the purchaser, the person to whom that land has been so allotted, leased or sold; (vi)
- (xiii) "private water" means all water which rises or falls naturally on any land or naturally drains or is lead on to one or more pieces of land which are the subject of separate original grants, but is not capable of common use for irrigation purposes; (xix)
- (xiv) "public stream" means a natural stream of water which flows in a known and defined channel, whether or not such channel is dry during any period of the year and whether or not its conformation has been changed by artificial means, if the water therein is capable of common use for irrigation on two or more pieces of land riparian thereto which are the subject of separate original grants or on one such piece of land and also on Crown land which is riparian to such stream: Provided that a stream which fulfils the foregoing conditions in part only of its course shall be deemed to be a public stream as regards that part only; (xvi)
- (xv) "public water" means any water flowing or found in or derived from the bed of a public stream, whether visible or not; (xvii)
- (xvi) "regulation" means a regulation made and in force under this Act, and includes any regulation made under any of the laws mentioned in section *one hundred and eighty-one* and in force at the commencement of this Act, so long as it remains in force, but shall not include any regulation made under paragraph (g) of sub-section (1) of section *forty-five* of the Irrigation and Conservation of Waters Act, 1912 (Act No. 8 of 1912); (xx)
- (xvii) "riparian land", in relation to a public stream, means—
 - (a) land held under an original grant or deed of transfer of such a grant or under a certificate of title, whether surveyed in one lot or more than one lot, whereon or along any portion of any boundary whereof a public stream exists, and any sub-division of such land; and
 - (b) Crown land in respect of which no original grant has been made, but the situation of which in relation to a public stream would have rendered it riparian thereto by virtue of the provisions of paragraph (a), if such a grant had been made; (xv)
- (xviii) "riparian owner" means the owner of riparian land; (xiv)
- (xix) "surplus water", in relation to a public stream, means public water flowing or found in that stream, other than the normal flow, if any; (xxii)
- (xx) "use for agricultural purposes", in relation to water, means use for the irrigation of land, and includes use by a riparian owner or any other person who has acquired a right to the use of water for the irrigation of land, for domestic purposes or for the purpose of water-borne sanitation or for the watering of stock or gardens; (viii)
- (xxi) "use for industrial purposes", in relation to water, means use for manufacturing, mechanical or mining purposes or for the generation of power, or use by the South African Railways and Harbours Administration

dreineer of gelei word op een of meer stukke grond wat die onderwerp van afsonderlike oorspronklike grondbriewe is, maar nie vir gemeenskaplike gebruik vir besproeiingsdoeleindes aangewend kan word nie; (xiii)

- (xx) „regulasie” ’n regulasie wat ingevolge hierdie Wet uitgevaardig en van krag is, en ook ’n regulasie kragtens enigeen van die in artikel *honderd een-en-tagtig* genoemde wette uitgevaardig en by die inwerkingtreding van hierdie Wet van krag, solank dit van krag bly, maar nie ook ’n regulasie ingevolge paragraaf (g) van sub-artikel (1) van artikel *vyf-en-veertig* van die „Besproeiings- en Waterbewarings Wet, 1912” (Wet No. 8 van 1912), uitgevaardig nie; (xvi)
- (xxi) „Staatswaterwerk” ’n waterwerk gebou of in stand gehou of bedoel om gebou of in stand gehou te word deur, of onder die beheer van die Regering, en ook water opgedam en opgegaar in so ’n werk, maar nie ook ’n waterwerk kragtens artikel *sewe-en-vyftig* deur die Minister gebou nie; (v)
- (xxii) „surpluswater”, met betrekking tot ’n openbare stroom, ander openbare water as die normale stroming (as daar is) wat in daardie stroom vloei of daarin aangetref word; (xix)
- (xxiii) „waterhof” ’n waterhof kragtens artikel *vier-en-dertig* ingestel; (xxiv)
- (xxiv) „waterraad” ’n raad ingevolge sub-artikel (2) van artikel *honderd-en-agt* ingestel; (xxiii)
- (xxv) „waterwerk”—
 - (a) ’n kanaal, bedding, put, reservoir, beskermmuur, wal, studam, dam, boorgat, pompinstallasie, pypgeleiding, sluishek, filtreerder, afsakseltek, pad, telefoonlyn of ander werk gebou, opgerig of gebruik vir of in verband met die opdamming, opgaring, deurgang, dreinerings, beheer of uithaal van water, of die ontwikkeling van waterkrag, met inbegrip van die ontwikkeling, transmissie en verskaffing van elektrisiteit, of die filtrering of suiwering van water, of die beskerming van openbare strome teen erosie of verslikking, of vloedwaterbeheer, of die beskerming van enige waterwerk of besproeide grond, of die gebruik van water vir enige doel, of die bewaring van reënwater;
 - (b) grond geokkupeer vir of in verband met die opdamming, opgaring, deurgang, dreinerings, beheer, uithaal, filtrering, suiwering, ontwikkeling van krag (met inbegrip van ontwikkeling van elektrisiteit), of ander gebruik van water, en ook ’n gebied geokkupeer of benodig of besit vir besproeiing of vir vloedwaterbeheer;
 - (c) maatpale, meetdamme en ander toestelle opgerig of gebruik deur die departement of ’n besproeiingsraad of ’n waterraad. (xxv)

HOOFSTUK I.

SENTRALE BEHEER.

Algemene bevoegdhede van die Minister.

2. Die Minister is bevoeg—

- (a) om waterwerke of die ander werke wat hy by die uitoefening van sy bevoegdhede of die verrigting van sy werksaamhede kragtens hierdie Wet nodig ag, aan te skaf, te bou, uit te brei, te verander, in stand te hou, te herstel, te beheer en van die hand te sit;
- (b) om boorgate en putte te maak, voorrade water uit ondergrondse bronne te verkry, water aldus verkry te bewaar en dit gratis of teen betaling aan enigiemand vir gebruik vir enige doel te voorsien of te lewer;
- (c) om op aansoek deur enige persoon boorgate of putte vir daardie persoon te maak;
- (d) om van tyd tot tyd in verband met die aangeleenthede in paragrafe (b) en (c) genoem, regulasies uit te vaardig, met inbegrip van regulasies waarby tariewe van vorderings vasgestel word;
- (e) om hidrologiese en hidrografiese stasies en werke te stig of in stand te hou en van die waarnemings aldaar gedoen aantekening te hou, en in die algemeen inligting en statistieke betreffende hidrografiese toestande in die Unie te verkry en aan te teken;

for railway purposes, and includes use for domestic purposes or for the purpose of water-borne sanitation or for the watering of stock or of streets and gardens in so far as may be incidental to use for industrial purposes; (ix)

(xxii) "use for urban purposes", in relation to water, means use in any area under the jurisdiction of a local authority for purposes for which water is ordinarily used by a local authority or by the inhabitants of such an area, including use for domestic purposes or for the purpose of water-borne sanitation or for the watering of gardens, watering or cleaning of streets or for industrial purposes; (x)

(xxiii) "water board" means a board constituted in terms of sub-section (2) of section *one hundred and eight*; (xxiv)

(xxiv) "water court" means a water court established under section *thirty-four*; (xxiii)

(xxv) "water work" means—

(a) a canal, channel, well, reservoir, protecting wall, embankment, weir, dam, borehole, pumping installation, pipeline, sluice gate, filter, sedimentation tank, road, telephone line or other work constructed, erected or used for or in connection with the impounding, storage, passage, drainage, control or abstraction of water, or the development of water power, including the generation, transmission and supply of electricity, or the filtration or purification of water, or the protection of public streams against erosion or siltation, or flood control, or the protection of any water work or irrigated land, or the use of water for any purpose, or the conservation of rain water;

(b) land occupied for or in connection with the impounding, storage, passage, drainage, control, abstraction, filtration, purification, development of power (including generation of electricity), or any other use of water, and includes any area occupied or required or held for the purpose of being irrigated or for flood control purposes;

(c) gauge posts, measuring weirs and any other appliances erected or used by the department or an irrigation board or a water board (xxv).

CHAPTER I.

CENTRAL CONTROL.

2. The Minister shall have power—

General powers of the Minister.

(a) to acquire, construct, extend, alter, maintain, repair, control and dispose of water works or such other works as he may consider necessary in the exercise of his powers or the performance of his functions under this Act;

(b) to sink boreholes and wells, obtain supplies of water from underground sources, conserve water so obtained and supply or deliver it to any person for use for any purpose without payment or upon payment of charges;

(c) to sink boreholes or wells for any person on the application of such person;

(d) to make regulations from time to time as to the matters referred to in paragraphs (b) and (c), including regulations fixing scales of charges;

(e) to establish or maintain hydrologic and hydrographic stations and works and to record the observations obtained thereby, and generally to obtain and record information and statistics as to hydrographic conditions in the Union;

- (f) om inligting te verkry en aan te teken omtrent die omvang van die grond onder besproeiing in die Unie, die hoeveelheid water vir die besproeiing van daardie grond gebruik of benodig, en die omvang, aard of waarde van die gewasse daarmee verbou;
- (g) om inligting te verkry en aan te teken aangaande die omvang van die grond in die Unie wat onder besproeiing gebring kan word;
- (h) om hidro-elektriese krag te ontwikkel, om inligting te verkry en aan te teken betreffende die ligging, aantal en omvang van hidro-elektriese of waterkragskemas in die Unie, en om in die algemeen inligting en statistieke betreffende hidro-elektriese moontlikhede in die Unie te verkry en aan te teken;
- (i) om *bona fide* boere, besproeiingsrade, plaaslike besture en ander persone te adviseer omtrent die bou, verandering, instandhouding, beheer of herstel van waterwerke, om aan sodanige boere, rade, plaaslike besture of ander persone boukundige hulp in verband met sodanige waterwerke te verstrek, en om ooreenkomstig regulasies en vorderingstariewe van tyd tot tyd deur hom uitgevaardig of bepaal, in verband met aangeleenthede rakende die gebruik van water hulp te verleen en advies te verstrek;
- (j) om enige waterwerk te inspekteer en om 'n plaaslike bestuur, besproeiingsraad of ander persoon wat vir die werk verantwoordelik is, skriftelik te gelas om die stappe te doen of die herstelwerk of veranderings aan te bring wat hy nodig ag vir die beskerming van lewens of die openbare veiligheid of die beskerming van eiendom wat volgens sy oordeel deur die bestaan van bedoelde werk bedreig word of mag word, en om by versuim om binne 'n redelike in die lasgewing vermelde tydperk aan bedoelde vereistes te voldoen, self die stappe te doen of die herstelwerk of veranderings aan te bring en die koste daarvan by aksie in 'n bevoegde hof op die betrokke plaaslike bestuur, raad of persoon te verhaal;
- (k) om planne, spesifikasies, kosteramings en verslae wat in verband met enige voorgestelde aanwending van water vir enige doel aan hom voorgelê mag word, na te gaan en daaromtrent ondersoek in te stel, en om in verband met sodanige planne, spesifikasies, ramings of verslae wat in ooreenstemming is met regulasies deur hom uitgevaardig, advies te verstrek;
- (l) om planne, spesifikasies, kosteramings en verslae in verband met enige voorgestelde waterwerk ten opsigte waarvan om 'n Staatslening of -subsidie aansoek gedoen is, na te gaan en daaromtrent ondersoek in te stel, ten einde te bepaal of dit raadsaam is al dan nie dat so 'n lening of subsidie toegestaan word;
- (m) om die ander stappe te doen wat hy nodig ag vir die ontwikkeling, beheer en gebruik van water en om aan die bepalinge van hierdie Wet gevolg te gee.

Aanstelling van
direkteur en
sekere tydelike
werknemers.

3. (1) (a) Die Minister stel, met inagneming van die wetsbepalings op die staatsdiens, van tyd tot tyd 'n beampte aan, bekend as die Direkteur van Waterwese, wat die bevoegdhede uitoefen en die werksaamhede verrig wat deur hierdie Wet aan die direkteur toegewys of opgedra word.
- (b) Die persoon wat onmiddellik voor die inwerking-treding van hierdie Wet die amp van Direkteur van Besproeiing bekleed het, word geag kragtens hierdie sub-artikel as Direkteur van Waterwese aangestel te wees.
- (2) Die Minister of, indien deur hom daartoe gemagtig, die direkteur of 'n ander amptenaar van die departement kan van tyd tot tyd die tydelike ingenieurs, landmeters, klerke of ander werknemers aanstel wat vir die verrigting van die departement se werksaamhede nodig mag wees: Met dien verstande dat—
 - (a) aanstellings ingevolge hierdie sub-artikel beperk is tot dienste verrig op die terrein waar die departement met werklike konstruksie- of ondersoekwerk besig is of wat regstreeks in verband staan met bepaalde planne of skemas wat in aanbou is of ondersoek word;
 - (b) ten opsigte van aldus aangestelde werknemers die salarisskale, toelaes, verlofvoorregte en ander diensvoorwaardes van toepassing is wat van tyd tot tyd deur die Minister na oorlegpleging met die Staatsdienskommissie bepaal word.

- (f) to obtain and record information as to the extent of land in the Union under irrigation, the quantity of water used or required for the irrigation of such land, and the extent, nature or value of the crops raised thereby;
- (g) to obtain and record information as to the extent of land in the Union which could be brought under irrigation;
- (h) to develop hydro-electric power, to obtain and record information as to the location, number and extent of hydro-electric or water-power schemes in the Union, and generally to obtain and record information and statistics as to hydro-electric possibilities in the Union;
- (i) to advise *bona fide* farmers, irrigation boards, local authorities and other persons as to the construction, alteration, maintenance, control or repair of water works, to furnish engineering assistance to such farmers, boards, local authorities or other persons in connection with such water works, and to assist in and advise on matters affecting the use of water in accordance with regulations and scales of charges to be made by him from time to time;
- (j) to inspect any water work and in writing to require any local authority, irrigation board or other person responsible for the work to do such acts or execute such repairs or alterations as he may consider necessary for the protection of life or the public safety or the protection of property, which in his opinion is or may be endangered by the existence of such work and, in default of compliance with such requirements within a reasonable time specified in the order, himself to do such acts or execute such repairs or alterations and to recover the cost thereof from the local authority, board or person concerned by action in any competent court;
- (k) to examine and enquire into plans, specifications, estimates of cost and reports which may be submitted to him in connection with any proposed utilization of water for any purpose, and to furnish advice in connection with any such plans, specifications, estimates or reports which are in conformity with regulations made by him;
- (l) to examine and enquire into plans, specifications, estimates of cost and reports in connection with any proposed water work in respect of which application has been made for a Government loan or subsidy for the purpose of ascertaining whether or not it is expedient that such a loan or subsidy be granted;
- (m) to take such other steps as he may consider necessary for the development, control and utilization of water and for giving effect to the provisions of this Act.

3. (1) (a) The Minister shall, subject to the laws governing the public service, from time to time appoint an officer to be styled the Director of Water Affairs who shall exercise the powers and perform the functions conferred or imposed upon the director by this Act.

Appointment of director and certain temporary employees.

(b) The person who held office as Director of Irrigation immediately prior to the commencement of this Act, shall be deemed to have been appointed as Director of Water Affairs under this sub-section.

(2) The Minister or, if authorized thereto by him, the director or any other officer of the department may from time to time appoint such temporary engineers, surveyors, clerks or other employees as may be necessary to enable the functions of the department to be exercised: Provided that—

- (a) appointments made in terms of this sub-section shall be limited to duties performed at the site where the department is engaged in actual constructional or investigational work or which bear a direct relationship to specific projects or schemes under construction or under investigation;
- (b) the scales of the salaries, allowances, leave privileges and other conditions of employment applicable in relation to any employees so appointed shall be as laid down by the Minister from time to time after consultation with the Public Service Commission.

(3) Iemand wat onmiddellik voor die inwerkingtreding van hierdie Wet in diens was ingevolge aanstelling kragtens sub-artikel (2) van artikel vyf van die „Besproeiings- en Waterbewarings Wet, 1912” (Wet No. 8 van 1912), kan, ondanks die herroeping van daardie Wet deur artikel *honderd een-en-tagtig* van hierdie Wet, aldus in diens gehou word asof hierdie Wet nie aangeneem was nie.

HOOFSTUK II.

BEHEER EN GEBRUIK VAN PRIVATE EN OPENBARE WATER.

Beskerming van
sekere regte.

4. (1) Die bepalings van hierdie Wet, behalwe artikel *twee-en-sestig*, word nie so uitgelê nie dat dit 'n uitwerking het op of afbreuk doen aan—

- (a) 'n reg op water wat by die inwerkingtreding van hierdie Wet deur enigiemand wettig verkry is, besit word en voordelig uitgeoefen word;
- (b) 'n reg op water wat voor die inwerkingtreding van hierdie Wet wettiglik deur enigiemand verkry is ten einde water aan die publiek te voorsien, en wat by bedoelde inwerkingtreding bestaan; of
- (c) 'n reg op water of op die gebruik van water aan enigiemand verleen of aan enige stuk grond verbonde uit hoofde van 'n private of spesiale wet wat nie uitdruklik deur hierdie Wet herroep of gewysig word nie.

(2) Die bepalings van hierdie Wet word nie so uitgelê dat dit op regte, bevoegdhede, pligte of werksaamhede ingevolge een of ander wet aan die Randwaterraad verleen, opgedra of toegewys, enige uitwerking het of daaraan afbreuk doen nie.

Gebruik van
private water.

5. Behoudens wettig verkreeë regte wat by die inwerkingtreding van hierdie Wet bestaan, berus die enigste, uitsluitlike en onbepaalde reg van gebruik en genot van private water by die eienaar van die grond waarop daardie water aangetref word: Met dien verstande dat die bepalings van hierdie artikel nie so uitgelê word nie dat dit afbreuk doen aan die reg van 'n eienaar van grond op 'n redelike aandeel in water wat op die grond van 'n hoër geleë eienaar ontspring, in 'n bekende en bepaalde bedding vloei op, of langs die grens van, grond geleë onderkant die grond waarop daardie water ontspring, en vir 'n tydperk van minstens dertig jaar deur die eienaar van die aldus geleë grond voordelig gebruik is.

Eiendomsreg op
openbare en
private water.

6. (1) Daar is geen eiendomsreg op openbare water nie en die beheer en gebruik daarvan word gereël soos in hierdie Wet bepaal.

(2) Wanneer 'n oewereienaar deur kunsmatige middels op sy eie grond 'n voorraad water verkry wat nie uit 'n openbare stroom afkomstig is nie, word daardie water geag private water te wees.

(3) Bedoelde eienaar is nie geregtig om 'n aandeel van enige water waartoe hy andersins ingevolge artikel *nege* of *tien* geregtig sou gewees het, te eis nie, solank die waterhof van oordeel is dat die aldus verkreeë voorraad water van so 'n omvang is en op so 'n wyse deur bedoelde eienaar aangewend kan word dat die gebruik deur hom van water uit 'n openbare stroom waaraan sy grond oewergrond is, op verkwisting sou neerkom.

Gebruik van
openbare water
deur gemagtigde
persone vir
sekere doeleindes.

7. Ondanks enigiets in hierdie Wet vervat—

- (a) kan enigiemand terwyl hy hom wettiglik op 'n plek bevind waar hy tot 'n openbare stroom toegang het, water uit daardie stroom neem vir onmiddellike gebruik aldaar om sy vee te laat suip, om te drink of te was of vir kookdoeleindes of om in 'n voertuig te gebruik;
- (b) kan 'n amptenaar of dienaar van 'n provinsiale administrasie, afdelingsraad of ander by wet ingestelde liggaam wat vir die aanleg, instandhouding, herstel of beheer van 'n pad (uitgesonderd 'n pad binne die regsgebied van 'n munisipale of ander soortgelyke instelling) verantwoordelik is, terwyl hy hom wettiglik op 'n plek bevind waar hy tot 'n openbare stroom toegang het, soveel van die water uit daardie stroom neem en gebruik as wat nodig mag wees vir die aanleg, instandhouding, herstel of beheer van bedoelde pad, mits 'n oewereienaar langs die loop van daardie stroom nie daardeur van water uit daardie stroom vir sy eie gebruik vir die besproeiing van grond wat dan onder besproeiing is of vir huishoudelike doeleindes of om sy vee te laat suip, onttroef word nie.

(3) Any person who immediately prior to the commencement of this Act was employed by virtue of appointment under sub-section (2) of section *five* of the Irrigation and Conservation of Waters Act, 1912 (Act No. 8 of 1912), may, notwithstanding the repeal of that Act by section *one hundred and eighty-one* of this Act, continue to be so employed as if this Act had not been passed.

CHAPTER II.

CONTROL AND USE OF PRIVATE AND PUBLIC WATER.

4. (1) The provisions of this Act, except section *sixty-two*, shall not be construed as affecting or derogating from— Saving of certain rights.

- (a) any right to water which at the commencement of this Act has been lawfully acquired, is possessed and is being beneficially exercised by any person;
- (b) any right to water lawfully acquired by any person before the commencement of this Act for the purpose of supplying water to the public and existing at such commencement; or
- (c) any right to water or to the use of water conferred upon any person or attaching to any piece of land by virtue of any private or special law not specifically repealed or amended by this Act.

(2) Nothing in this Act contained shall be construed as affecting or derogating from any rights, powers, duties or functions vested in, conferred upon or assigned to the Rand Water Board under any law.

5. Subject to rights lawfully acquired and existing at the commencement of this Act, the sole, exclusive and unlimited use and enjoyment of private water belongs to the owner of the land on which such water is found: Provided that nothing in this section contained shall be construed as derogating from the right of an owner of land to a reasonable share of water which, rising on the land of an upper owner, flows in a known and defined channel on, or along the boundary of, land situated beyond that upon which such water rises, and has for a period of not less than thirty years been beneficially used by the owner of the land so situated. Use of private water.

6. (1) There shall be no right of property in public water and the control and use thereof shall be regulated as provided in this Act. Ownership of public and private water.

(2) Whenever a riparian owner obtains, by artificial means on his own land, a supply of water which is not derived from a public stream, such water shall be deemed to be private water.

(3) The said owner shall not be entitled to claim a share of any water to which he would otherwise have been entitled in accordance with section *nine* or *ten*, so long as the water court is of the opinion that the supply of water so created is of such volume and can be so utilized by such owner that the use by him of water from a public stream to which his land is riparian would be a wasteful use.

7. Notwithstanding anything contained in this Act—

- (a) any person may, while he is lawfully at any place where he has access to a public stream, take and use water from such stream for the immediate purpose of watering stock or drinking, washing or cooking, or use in a vehicle at that place; Use of public water by authorized persons for certain purposes.
- (b) any officer or servant of a provincial administration, divisional council or other lawfully constituted body which is responsible for the construction, maintenance, repair or control of any road (other than a road within the area of jurisdiction of any municipal or other like institution) may, while he is lawfully at any place where he has access to a public stream, take and use so much of the water from such stream as may be necessary for the purpose of constructing, maintaining, repairing or controlling such road, provided no riparian owner along the course of such stream is thereby deprived of water from such stream for his own use for the irrigation of land which is then under irrigation or for domestic purposes or for the watering of his stock.

Regte op openbare water ten opsigte van onderverdelings van grond.

8. (1) Die eienaar van 'n onderverdeling van grond in die omskrywing van „oewergrond” in artikel *een* bedoel, is geregtig op so 'n aandeel in die water van 'n openbare stroom waarop die eienaar van die oorspronklike stuk grond waarvan daardie onderverdeling deel uitgemaak het, onmiddellik voor die onderverdeling van sodanige grond geregtig was, as wat by ooreenkoms tussen die betrokke eienaars bepaal of deur 'n waterhof toegewys mag word, selfs al vloei daardie openbare stroom nie op of langs die grens van bedoelde onderverdeling nie, behalwe waar die reg op so 'n aandeel by ooreenkoms, bevel van 'n bevoegde hof of op ander wettige wyse uitgesluit is.

(2) Die bepalings van hierdie artikel het nie die uitwerking om 'n onderverdeling van grond wat by die inwerkingtreëding van hierdie Wet onder afsonderlike titelbewys besit was, maar by bedoelde inwerkingtreëding nie oewergrond aan 'n openbare stroom was nie, tot oewergrond aan daardie stroom te maak nie.

Gebruik van normale stroming van openbare stroom.

9. (1) Behoudens die bepalings van hierdie Wet, en enige bestaande reg, is elke oewereienaar geregtig op redelike gebruik van so 'n deel as wat hy wettiglik van iemand anders mag verkry het en van sy deel (soos ingevolge artikel *twee-en-vyftig* bepaal) van die normale stroming van 'n openbare stroom met betrekking waartoe sy grond oewergrond is, vir gebruik vir landbou- en stedelike doeleindes op daardie grond: Met dien verstande dat—

- (a) 'n oewereienaar bedoelde water nie mag verkwis of enige gedeelte daarvan op onredelike wyse mag behou of toelaat dat dit in onredelike hoeveelhede tot nadeel van laer eienaars afloop nie;
- (b) 'n oewereienaar wat 'n gedeelte van bedoelde normale stroming vir landboudoeleindes aanwend, sodanige water op sy eie grond, indien dit doenlik is, of anders by die naaste gerieflike plek elders moet laat terugvloei na die openbare stroom waaruit dit geneem is met geen ander verlies as wat deur sodanige aanwending veroorsaak is nie, tensy hy wetlik verplig is om die water na ander grond te laat vloei;
- (c) 'n oewereienaar nie 'n gedeelte van bedoelde normale stroming vir die besproeiing van grond mag gebruik nie, indien hy daardeur 'n laer oewereienaar wat op die gebruik van bedoelde normale stroming geregtig is, uitgesonderd 'n inwoner van 'n gebied binne die regsgebied van 'n plaaslike bestuur aan wie deur daardie plaaslike bestuur water verskaf word, van water vir huishoudelike gebruik of as suiping vir vee ontroof;
- (d) 'n laer oewereienaar in paragraaf (c) bedoel in sy benodigdhede vir huishoudelike doeleindes en suiping vir sy vee moet voorsien uit soveel van die normale stroming as wat hy geregtig is om vir landboudoeleindes te gebruik, voordat hy vir sy huishoudelike gebruik of as suiping vir sy vee kan eis dat enige ander oewereienaar enige deel moet afstaan van die aandeel van die normale stroming wat laasgenoemde eienaar geregtig is om vir landboudoeleindes aan te wend;
- (e) behoudens die bepalings van hierdie Wet, en enige bestaande reg, die eienaars van oewergrond aan 'n takstroom van 'n openbare stroom 'n voorkeurreg het op die gebruik van soveel van die normale stroming van daardie takstroom as wat hulle vir een of ander voormelde doel nodig mag hê, teenoor enige ander eienaar se reg om die normale stroming van daardie takstroom vir sodanige doeleindes te gebruik op grond wat oewergrond daaraan is bloot uit hoofde daarvan dat dit oewergrond is aan die hoofstroom waarin daardie takstroom vloei.

(2) (a) Die verwysing na opgaring in die omskrywing van „normale stroming” in artikel *een*, word nie geag 'n verwysing in te sluit na die opdamming van die aandeel van die normale stroming van 'n openbare stroom waarop 'n oewereienaar uit hoofde van 'n wettige verdeling van sodanige normale stroming geregtig is of mag word nie, en 'n oewereienaar wat uit hoofde van so 'n wettige verdeling van sodanige normale stroming 'n reg het om 'n gedeelte van die normale stroming van 'n openbare stroom te gebruik, kan daardie gedeelte opdam en opgaar in enige reservoir wat hy wettiglik vir die opdamming en opgaring van surpluswater waartoe hy ingevolge sub-artikel (1) van artikel *tien* geregtig is, in die bedding van bedoelde openbare stroom gebou het.

8. (1) The owner of any sub-division of land referred to in the definition of "riparian land" in section *one* is entitled to such share of the water of a public stream to which the owner of the original piece of land of which such sub-division formed a part was entitled immediately prior to the sub-division of such land, as may be agreed upon by the owners concerned or apportioned by the water court, even if that public stream does not flow on or along the boundary of such sub-division, except where the right to such share has been excluded by agreement, order of a competent court or other lawful means.

Rights to public water in respect of sub-divisions of land.

(2) Nothing contained in this section shall be construed as rendering riparian to a public stream any sub-division of land held under separate title at the commencement of this Act, but not riparian to that stream at such commencement.

9. (1) Subject to the provisions of this Act, and to any existing right, every riparian owner is entitled to the reasonable use of such share as may have been lawfully acquired by him from any other person and of his share (as determined under section *fifty-two*) of the normal flow of a public stream to which his land is riparian for use for agricultural and urban purposes on such land: Provided that—

Use of normal flow of a public stream.

(a) a riparian owner shall not use such water wastefully or detain any portion thereof unreasonably or allow it to run off in unreasonable quantities to the detriment of lower owners;

(b) a riparian owner who uses any portion of such normal flow for agricultural purposes shall on his own land, if practicable, or otherwise at the nearest convenient point elsewhere, return such water to the public stream from which it was abstracted with no other loss than that which has been occasioned by such use, unless he is legally obliged to pass the water on to other land;

(c) a riparian owner shall not use any portion of such normal flow for the irrigation of land if thereby he deprives any lower riparian owner having a right to the use of such normal flow, other than an inhabitant within the area of jurisdiction of a local authority who is being supplied with water by that local authority, of water for domestic purposes or the watering of stock;

(d) a lower riparian owner referred to in paragraph (c) shall satisfy his needs as to domestic use and the watering of his stock out of so much of the normal flow as he is entitled to use for agricultural purposes before he shall be entitled to demand, for the purposes of his domestic use or the watering of his stock, that any other riparian owner shall abate any of the share of the normal flow such last-mentioned owner is entitled to use for agricultural purposes;

(e) subject to the provisions of this Act, and to any existing right, the owners of land riparian to a tributary to a public stream shall be entitled to so much of the normal flow of such tributary as they may require for any of the aforesaid uses in preference to any right of any other owner to the normal flow of such tributary for such uses on land which is riparian thereto only by virtue of its being riparian to the main stream into which the said tributary flows.

(2) (a) The reference to storage in the definition of "normal flow" in section *one* shall not be deemed to include a reference to the impoundment of such share of the normal flow of a public stream as a riparian owner is or may become entitled to by virtue of a lawful distribution of such normal flow, and a riparian owner having a right to the use of a portion of the normal flow of a public stream by virtue of such a lawful distribution of such normal flow, may impound and store such portion in any reservoir which he has lawfully constructed in the channel of such public stream for the impoundment and storage of surplus water to which he is entitled in terms of sub-section (1) of section *ten*.

- (b) 'n Oewereienaar wat nie so 'n reservoir gebou het nie, mag nie, behalwe ingevolge vergunning kragtens sub-paragraaf (i) van paragraaf (b) van sub-artikel (2) van artikel *elf* verleen, die betrokke gedeelte in die bedding van 'n openbare stroom opdam en opgaar nie, maar kan daardie gedeelte opdam en opgaar in enige reservoir wettiglik deur hom buite die bedding van bedoelde stroom gebou.

Gebruik van
surpluswater van
'n openbare
stroom.

10. (1) Behoudens die bepalings van hierdie Wet, en enige bestaande reg, is elke oewereienaar geregtig op die gebruik van soveel van die surpluswater van 'n openbare stroom waaraan sy grond oewergrond is as wat hy vir huishoudelike doeleindes, as suiping vir sy vee, en vir landbou- en stedelike doeleindes voordelig kan gebruik, en kan hy bedoelde surpluswater vir daardie doeleindes opdam en opgaar.

(2) 'n Oewereienaar in sub-artikel (1) bedoel, is nie verplig om sy gebruik van enige gedeelte van bedoelde surpluswater waarop hy ingevolge daardie sub-artikel geregtig is, ten gunste van 'n laer oewereienaar vir daardie eienaar se huishoudelike gebruik of as suiping vir sy vee of vir landbou- of stedelike doeleindes in te kort nie, indien so 'n laer eienaar nie uit hoofde van ooreenkoms op die gebruik van daardie water vir sodanige doeleindes geregtig is nie.

Gebruik van
openbare water
deur sekere
persone onder-
worpe aan
toestemming van
waterhof.

11. (1) (a) Behalwe vir sover in sub-artikel (3) van artikel *ses-en-vyf* en artikel *sewe-en-sestig* bepaal, mag niemand, behalwe met vergunning van 'n waterhof, en, waar die hoeveelheid gebruik sestigduisend gellings op enige dag of gemiddeld vyftigduisend gellings per dag gedurende enige maand te bowe gaan, kragtens 'n permit van die Minister, openbare water vir nywerheidsdoeleindes gebruik nie: Met dien verstande dat vergunning van die waterhof nie nodig is nie in die geval van 'n plaaslike bestuur of 'n ander volgens wet ingestelde liggaam wat die reg het om of openbare of private water binne sy behoorlik bepaalde regsgebied te beheer en te voorsien, of in die geval van iemand aan wie bedoelde water deur so 'n plaaslike bestuur of ander liggaam voorsien word: Met dien verstande voorts dat, behoudens die bepalings van artikel *nege*, iemand wat geregtig is of 'n reg verkry het om openbare water vir landboudoeleindes te gebruik, sonder vergunning van die waterhof, kragtens 'n permit van die Minister, en onderworpe aan sodanige voorwaardes as wat hy goetvind om op te lê, water kan gebruik vir die ontwikkeling van krag wat vyftien perdekrags nie te bowe gaan nie.

(b) Nóg die vergunning van 'n waterhof nóg 'n permit van die Minister is nodig ten opsigte van die gebruik deur enige persoon in verband met een of ander onderneming van 'n hoeveelheid openbare water wat nie gedurende enige maand die gemiddelde hoeveelheid per maand van sodanige water te bowe gaan nie wat wettiglik in verband met daardie onderneming deur hom gebruik is gedurende die laaste tydperk van ses maande binne die tydperk van twaalf maande onmiddellik voor die inwerking-treding van hierdie Wet waarin hy aldus water gebruik het, en die vergunning van die waterhof is ook nie nodig nie ten opsigte van die gebruik deur enige persoon in verband met enige onderneming, van 'n hoeveelheid openbare water wat hy uit hoofde van 'n bevel wat voor die inwerking-treding van hierdie Wet ingevolge 'n hierby herroepende wet deur 'n waterhof toegestaan is, gemagtig is om te gebruik.

(2) 'n Waterhof kan op aansoek van 'n persoon (met inbegrip van die Regering, die Suid-Afrikaanse Spoorweg- en Hawensadministrasie en 'n provinsiale administrasie)—

(a) wat ingevolge hierdie Wet geregtig is om openbare water vir landboudoeleindes te gebruik of wat 'n reg verkry het om bedoelde water te gebruik, aan die applikant magtiging verleen om die aandeel in bedoelde water waartoe hy aldus geregtig is of tot die gebruik waarvan hy so 'n reg verkry het, of enige gedeelte van daardie aandeel, vir landbou-, nywerheids- of stedelike doeleindes of die ander doeleindes wat die waterhof mag bepaal, en of op oewergrond of elders te gebruik;

(b) wat nie 'n reg op die gebruik van openbare water het nie—

- (b) A riparian owner who has not constructed such a reservoir, shall not, except in pursuance of permission granted under sub-paragraph (i) of paragraph (b) of sub-section (2) of section *eleven*, impound and store the portion in question in the channel of a public stream, but may impound and store that portion in any reservoir lawfully constructed by him outside the channel of such stream.

10. (1) Subject to the provisions of this Act, and to any existing right, every riparian owner is entitled to the use of so much of the surplus water of a public stream to which his land is riparian as he can beneficially use for domestic purposes, for the watering of his stock, and for agricultural and urban purposes, and to impound and store such surplus water for those purposes.

Use of surplus water of a public stream.

(2) A riparian owner referred to in sub-section (1) shall not be compelled to curtail his use of any portion of the said surplus water to which he is entitled in terms of the said sub-section in favour of a lower riparian owner for such owner's domestic use or the watering of his stock or for agricultural or urban purposes, if such lower owner is not in terms of any agreement entitled to the use of such water for such purposes.

11. (1) (a) Save as is provided in sub-section (3) of section *fifty-six* and section *sixty-seven*, no person shall use public water for industrial purposes except with the permission of a water court and, where the quantity used exceeds sixty thousand gallons on any one day or fifty thousand gallons on an average per day during any month, under permit from the Minister: Provided that the permission of the water court shall not be required in the case of a local authority or any other body constituted under any law which has the right to control and supply either private or public water within its duly constituted area of jurisdiction, or in the case of any person to whom such water is supplied by such a local authority or other body: Provided further that, subject to the provisions of section *nine*, a person who is entitled or has acquired a right to use public water for agricultural purposes may, under permit from the Minister, and subject to such conditions as he may deem fit to impose, use water for the development of power not exceeding fifteen horse power, without the permission of the water court.

Use of public water by certain persons subject to permission of water court.

- (b) Neither the permission of a water court nor a permit from the Minister shall be required in respect of the use by any person in connection with any undertaking of a quantity of public water not exceeding during any month the average quantity per month of such water lawfully used by him in connection with that undertaking during the last period of six months within the period of twelve months immediately preceding the commencement of this Act during which water was so used by him, nor shall the permission of a water court be required for the use by any person in connection with any undertaking of a quantity of public water which he has been authorized to use by order granted by a water court prior to the commencement of this Act under any law hereby repealed.

(2) A water court may on the application of a person (including the Government, the South African Railways and Harbours Administration and any provincial administration)—

- (a) who is entitled in terms of this Act to use public water for agricultural purposes or who has acquired a right to the use of such water, authorize the applicant to use the share of such water to which he is so entitled or to the use of which he has acquired such a right, or any part of such share, for agricultural, industrial or urban purposes or such other purposes as the water court may determine, either on riparian land or elsewhere;
- (b) who is not entitled to use public water—

- (i) indien die waterhof van oordeel is dat die verlening van so 'n vergunning in die openbare belang sal wees, aan die applikant vergunning verleen om 'n vermelde hoeveelheid openbare water, hetsy surpluswater of normale stroming van 'n openbare stroom, vir gebruik vir landbou-, stedelike of nywerheidsdoeleindes of die ander doeleindes wat die waterhof bepaal, hetsy op oewergrond aan daardie openbare stroom of elders, uit bedoelde stroom te neem of binne of buite die bedding van bedoelde stroom op te dam en op te gaar, en uit te neem;
 - (ii) indien die waterhof oortuig is dat gedurende enige tydperk al die water van 'n openbare stroom, hetsy normale stroming of surpluswater, nie op grond wat oewergrond is aan elke stroom waarin of waarheen daardie water natuurlikerwys vloei, gebruik word of sal word nie, aan die applikant vergunning verleen om soveel water uit bedoelde stroom as wat volgens die waterhof se oordeel nie aldus gebruik word of sal word nie, vir landbou-, nywerheids- of stedelike doeleindes, hetsy op oewergrond binne die opvanggebied van daardie stroom of elders, te neem of buite die bedding van daardie stroom op te dam en op te gaar en gedurende bedoelde tydperk uit te neem.
- (3) 'n Waterhof oorweeg nie 'n aansoek om vergunning vir die gebruik vir nywerheidsdoeleindes van 'n hoeveelheid water wat sestigduisend gellings op enige dag of gemiddeld vyftigduisend gellings per dag gedurende enige maand, te bowe gaan nie, tensy die aansoek van 'n permit kragtens sub-artikel (5) van artikel twaalf deur die Minister uitgereik, vergesel gaan.
- (4) Voordat hy 'n vergunning ingevolge sub-paragraaf (i) van paragraaf (b) van sub-artikel (2) verleen, moet die waterhof vasstel op watter wyse en in watter mate die regte van die persone of enigeen of meer van die persone wat op die gebruik van water uit die betrokke stroom geregtig is, ingekort moet word ten einde die water ten opsigte waarvan die vergunning verleen staan te word, beskikbaar te stel: Met dien verstande dat—
- (a) so 'n inkorting sover doenlik in die eerste plek moet geskied ten opsigte van die regte van persone wat bedoelde regte nie uitgeoefen het nie;
 - (b) regte op die water van die betrokke openbare stroom wat uit hoofde van 'n statuut, wat nie uitdruklik deur hierdie Wet herroep of gewysig word nie, aan enigiemand toekom, nie aan inkorting onderhewig is nie;
 - (c) die regte van 'n oewereienaar op die gebruik van die normale stroming van so 'n stroom vir huishoudelike doeleindes en as suiping vir sy vee, nie sonder sy skriftelike toestemming aldus ingekort of andersins nadelig getref mag word nie.
- (5) 'n Vergunning kragtens sub-paragraaf (ii) van paragraaf (b) van sub-artikel (2) kan permanent of vir so 'n tydperk as wat die waterhof bepaal, verleen word.
- (6) Die waterhof kan—
- (a) ten opsigte van 'n vergunning kragtens paragraaf (a) of sub-paragraaf (ii) van paragraaf (b) van sub-artikel (2) verleen, die voorwaardes opleë wat volgens sy oordeel sal verhoed dat laer oewereienaars nadelig getref word; en
 - (b) ten opsigte van 'n vergunning kragtens sub-paragraaf (i) van paragraaf (b) van daardie sub-artikel verleen, gelas dat vergoeding (waarvan die bedrag en wyse van betaling deur die waterhof vasgestel word) betaal word aan enigiemand wie se regte ingekort is,
- en kan die ander voorwaardes wat hy wenslik ag, opleë ten opsigte van enige vergunning ingevolge daardie sub-artikel verleen.

Permit om water vir nywerheidsdoeleindes te gebruik moet in sekere gevalle van Minister verkry word.

12. (1) Iemand wat 'n nywerheidsonderneming ten opsigte waarvan enige hoeveelheid water vir gebruik vir nywerheidsdoeleindes benodig is, wil oprig, moet voordat hy so 'n onderneming begin of oprig—

- (a) die direkteur in kennis stel van die aard en die metode van suiwing van die afvalwater, afloop of afval, as daar is, wat deur die werking van sodanige onderneming sal ontstaan; en
- (b) indien hy 'n hoeveelheid openbare water vir nywerheidsdoeleindes wil gebruik wat sestigduisend gellings op enige dag of gemiddeld vyftigduisend gellings per

- (i) if the water court is of opinion that the grant of such permission will be in the public interest, permit the applicant to abstract from a public stream or to impound and store within or outside the channel of a public stream and to abstract, for use at any place for agricultural, urban or industrial purposes or such other purposes as the water court may determine, whether on land riparian to such stream or elsewhere, a stated quantity of public water, whether surplus water or normal flow of such stream;
- (ii) if the water court is satisfied that during any period all the water of a public stream, whether normal flow or surplus water, is not or will not be used on land riparian to every stream in or into which such water naturally flows, permit the applicant to abstract from such stream or to impound and store outside the channel of such stream and to abstract during the said period so much of the water as in the opinion of the water court is not or will not be so used, for agricultural, industrial or urban purposes, either on riparian land within the catchment area of such stream or elsewhere.

(3) A water court shall not consider an application for permission to use a quantity of water exceeding sixty thousand gallons on any one day or fifty thousand gallons on an average per day during any month for industrial purposes, unless the application is accompanied by a permit issued by the Minister under sub-section (5) of section *twelve*.

(4) Before granting any permission under sub-paragraph (i) of paragraph (b) of sub-section (2), the water court shall determine in what manner and to what extent the rights of the persons or of any one or more of the persons entitled to the use of water from the stream in question shall be abated for the purpose of making available the water in respect of which such permission is to be granted: Provided that—

- (a) such abatement shall as far as practicable be made in the first instance in respect of the rights of persons who have not exercised such rights;
- (b) any rights to the water of the public stream in question vested in any person by virtue of any statute not specifically repealed or amended by this Act shall not be subject to any abatement;
- (c) the rights of a riparian owner to the use of the normal flow of such stream for domestic purposes and for the watering of his stock shall not be so abated or otherwise prejudicially affected without his written consent.

(5) Any permission under sub-paragraph (ii) of paragraph (b) of sub-section (2) may be granted permanently or for such period as the water court may determine.

(6) The water court may—

- (a) in respect of a permission granted under paragraph (a) or sub-paragraph (ii) of paragraph (b) of sub-section (2), impose such conditions as in its opinion will prevent lower riparian owners from being prejudicially affected; and
- (b) in respect of a permission granted under sub-paragraph (i) of paragraph (b) of that sub-section, order the payment of compensation (the amount and manner of payment whereof shall be determined by the water court) to any person whose rights have been abated,

and may impose such other conditions in respect of any permission granted under the said sub-section as it may deem desirable.

12. (1) Any person who desires to establish an industrial undertaking in respect of which any quantity of water is required to be used for industrial purposes shall, before initiating or establishing such undertaking—

- (a) advise the director of the nature and the method of purification of the waste water, effluent or waste, if any, which will be occasioned by the operation of such undertaking; and
- (b) if he desires to use for industrial purposes a quantity of public water exceeding sixty thousand gallons on any one day or fifty thousand gallons on an average

Permit for industrial use of water to be obtained from Minister in certain cases.

Act 56 of 61

or who desires to expand an industrial undertaking in respect of which any quantity of water is used or is required to be used for such purposes.

dag gedurende enige maand te bowe gaan (hetsy 'n gedeelte van daardie water, in die geval van water uit 'n openbare stroom geneem, vervolgens na bedoelde stroom teruggekeer word, al dan nie) by die Minister om 'n permit wat sodanige gebruik magtig, aansoek doen.

(2) Iemand wat gedurende die in paragraaf (b) van sub-artikel (1) van artikel *elf* bedoelde tydperk van ses maande, in verband met enige onderneming 'n hoeveelheid openbare water gebruik het wat gemiddeld vyftigduisend gellings per dag te bowe gaan, moet binne ses maande na die inwerkingtreding van hierdie Wet by die direkteur 'n opgawe indien waarin die hoeveelheid sodanige water aldus gebruik gedurende daardie tydperk en besonderhede aangaande die onderneming ten opsigte waarvan daardie water aldus gebruik was, aangetoon word.

(3) 'n Aansoek ingevolge sub-artikel (1) moet in die vorm wees en die besonderhede bevat wat by regulasie voorgeskryf mag word.

(4) By ontvangs van so 'n aansoek moet die Minister na oorlegging met die Minister van Ekonomiese Sake en na sodanige ondersoek as wat hy goedvind, die aansoek oorweeg met behoorlike inagneming van—

(a) die hoeveelheid water wat volgens sy oordeel gewoonlik by die voorgestelde voorsieningsbron vir gebruik beskikbaar is;

(b) die vraag of die verlening van 'n permit ingevolge hierdie artikel die voorraad waarskynlik in so 'n mate sal verminder dat redelike voorsiening van water uit dieselfde bron aan persone binne die regsgebied van die plaaslike bestuur, liggaam of persoon betrokke by die voorsiening van bedoelde water, of, al na die geval, aan persone wat geregtig is om water uit daardie bron te gebruik, in gevaar gestel mag word al dan nie; en

(c) die vraag of dit nie in die openbare belang, of met die oog op desentralisering van nywerheidsondernemings, of weens die aard van die afvalwater, afloop of afval wat deur die werking van die betrokke onderneming sal ontstaan of die metode wat vir die suiwering van sodanige afvalwater, afloop of afval, toegepas sal word, wenslik sal wees om bedoelde onderneming elders as op die plek in die aansoek vermeld, te stig nie.

(5) Die Minister kan vervolgens 'n permit verleen ooreenkomstig die aansoek of met die wysigings wat hy goedvind, of weier om 'n permit te verleen.

(6) Die bepalinge van hierdie artikel word nie so uitgelê dat dit iemand daarvan vrystel om by 'n waterhof aansoek te doen om vergunning om openbare water vir nywerheidsdoeleindes te gebruik nie.

Plaaslike bestuur kan water binne sy gebied vir stedelike gebruik neem.

13. (1) Indien 'n eienaar van grond wat binne die regsgebied van 'n plaaslike bestuur geleë is, geregtig is op die gebruik, vir die besproeiing van daardie grond, van die water van 'n openbare stroom waaraan daardie grond oewergrond is, kan genoemde plaaslike bestuur, indien hy bedoelde water of enige deel daarvan vir stedelike doeleindes nodig het, met toestemming van die Administrateur van die provinsie waarin daardie plaaslike bestuur ingestel is en van die Minister, bedoelde water of enige gedeelte daarvan neem wat hy aldus nodig het.

(2) 'n Plaaslike bestuur moet, voordat hy die by sub-artikel (1) aan hom verleende bevoegdheid uitoefen, aan die betrokke eienaar minstens ses maande vooruit skriftelik kennis gee van sy voorneme om dit te doen, en moet aan bedoelde eienaar die vergoeding betaal waarop ooreengekom of wat by ontstentenis van ooreenkoms deur 'n waterhof vasgestel mag word.

Gebruik van openbare water deur Spoorweg- en Hawensadministrasie onder spesiale omstandighede.

14. (1) Indien die instandhouding van spoorwegdienste deur die Suid-Afrikaanse Spoorweg- en Hawensadministrasie te eniger tyd bemoeilik word deurdat 'n bestaande watervoorraad wat daardie Administrasie wettiglik vir spoorwegdoeleindes gebruik, tydelik of gedeeltelik ontoereikend word, kan bedoelde Administrasie ooreenkomstig die bepalinge van sub-artikel (2) aansoek doen om 'n tydelike bevel wat aan hom die reg verleen om 'n vermelde hoeveelheid openbare water vir spoorwegdoeleindes te gebruik.

(2) 'n Aansoek om 'n bevel kragtens sub-artikel (1) moet gerig word aan 'n regter van die afdeling van die Hooggeregshof van Suid-Afrika wat regsbevoegdheid uitoefen in die gebied waar die water, waarop die aansoek betrekking het, uitgeneem staan te word.

per day during any month (whether or not any portion of such water is, in the case of water abstracted from a public stream, subsequently returned to that stream), apply to the Minister for a permit authorizing such use.

(2) Any person who has during the period of six months referred to in paragraph (b) of sub-section (1) of section *eleven* used in connection with any undertaking a quantity of public water exceeding on an average fifty thousand gallons per day, shall within six months after the commencement of this Act lodge with the director a statement showing the quantity of such water so used during that period and particulars of the undertaking in connection with which that water was so used.

(3) An application under sub-section (1) shall be in such form and shall contain such particulars as may be prescribed by regulation.

(4) Upon receipt of such application the Minister shall, after consultation with the Minister of Economic Affairs, and after such investigation as he may deem fit, consider the application with due regard to—

- (a) the quantity of water which is, in his opinion, ordinarily available for use at the proposed source of supply;
- (b) whether or not the granting of a permit under this section would be likely to result in such a diminution of the supply as to endanger the reasonable supply of water from the same source to persons in the area of jurisdiction of the local authority, body or person concerned with the supply of such water, or (as the case may be) to persons entitled to use water from that source; and
- (c) whether it would not be desirable in the public interest or with a view to the decentralisation of industrial undertakings or the nature of the waste water, effluent or waste which will be occasioned by the operation of the undertaking in question or the method to be applied in the purification of such waste water, effluent or waste, that such undertaking be established at a place other than the place stated in the application.

(5) The Minister may thereupon grant a permit in terms of the application or with such modifications as he may deem fit, or refuse to grant a permit.

(6) Nothing in this section contained shall be construed as exempting any person from applying to a water court for permission to use public water for industrial purposes.

13. (1) If an owner of land which is situated within the area of jurisdiction of a local authority is entitled to the use of the water of a public stream to which such land is riparian for the irrigation of that land, the said local authority may, if it requires such water or any portion thereof for urban purposes, with the consent of the Administrator of the province in which such local authority has been established and of the Minister, take such water or any portion thereof as it may so require.

Local authority entitled to take water within its area for urban use.

(2) A local authority shall before exercising the power conferred upon it by sub-section (1), give to the owner concerned not less than six months' notice in writing of its intention to do so, and shall pay to such owner such compensation as may be agreed upon or failing agreement determined by a water court.

14. (1) If the maintenance of railway services by the South African Railways and Harbours Administration is at any time rendered difficult owing to a temporary or partial failure of an existing supply of water which that Administration is lawfully using for railway purposes, the said Administration may in accordance with the provisions of sub-section (2) make application for a temporary order permitting it to use a stated quantity of public water for railway purposes.

Use of public water by Railways and Harbours Administration under special circumstances.

(2) An application for an order under sub-section (1) shall be made to a judge of the division of the Supreme Court of South Africa which exercises jurisdiction in the area within which the water to which the application relates is to be abstracted.

(3) So 'n regter kan, ondanks andersluidende bepalings van hierdie Wet, 'n bevel verleen wat die gebruik van bedoelde water toelaat oor so 'n tydperk en onderworpe aan sodanige bedinge en voorwaardes as wat hy bepaal.

(4) Indien genoemde regter 'n bevel kragtens sub-artikel (3) verleen, en eienaars van grond wat oewergrond aan die openbare stroom is waaruit die tydelike watervoorraad ingevolge die bevel geneem word, of ander persone wat op die gebruik van die water uit daardie stroom geregtig is, benadeel word deurdat hulle tydelik van die gebruik van bedoelde water ontroof word en gevolglik skade gely het, moet bedoelde Administrasie aan daardie eienaars of persone die vergoeding betaal waarop ooreengekom word, of wat, te eniger tyd na die verlening van die bevel, en na behoorlike kennisgewing aan die betrokke partye, deur bedoelde regter of 'n ander regter van dieselfde afdeling van die Hooggeregshof bepaal mag word.

(5) Enige verrigtings ingevolge hierdie artikel word by die toepassing van hierdie Wet geag verrigtings voor 'n waterhof te wees en die regter voor wie sodanige verrigtings plaasvind, word geag 'n waterhofregter te wees.

(6) Die gebruik van water deur voormelde Administrasie vir spoorwegdoeleindes ingevolge die uitoefening van 'n reg op water wat wettiglik deur hom van 'n oewereenaar verkry is, of wat hy andersins onmiddellik voor die inwerkingtreding van hierdie Wet wettiglik geniet het, word geag deur 'n waterhof veroorloof te gewees het.

Voorbehoud ten opsigte van gebiede beskerm ingevolge herroepe bepalings van Wet 8 van 1912.

15. Ondanks die herroepe deur hierdie Wet van die onherroepe bepalings van die „Besproeiings- en Waterbewarings Wet, 1912” (Wet No. 8 van 1912), en van die Besproeiings-Wysigingswet, 1934 (Wet No. 46 van 1934), bly enige vergunning verleen of bepaling gemaak of bevel uitgevaardig of ander handeling verrig deur 'n waterhof, en enige onderneming of sekuriteit gegee deur enigiemand, ingevolge artikel vyftien of sestiën van genoemde „Besproeiings- en Waterbewarings Wet, 1912”, voor die inwerkingtreding van bedoelde Besproeiings-Wysigingswet, 1934, ten volle van krag en geldig asof hierdie Wet nie aangeneem was nie.

Beperking op bou van waterwerke en uitneem van water in beskermde gebiede.

16. (1) 'n Eenaar van oewergrond wat op die datum van inwerkingtreding van hierdie Wet onder aparte titelbewys geregistreer is en wat geleë is binne die opvanggebied waarop 'n in artikel vyftien bedoelde vergunning, bepaling of bevel betrekking het, kan ondanks daardie vergunning, bepaling of bevel op bedoelde grond—

- (a) waterwerke bou van 'n totale opgaarkapasiteit van hoogstens vyf-en-twintigmiljoen gellings, waarin hy vir sy eie gebruik surpluswater in enige openbare stroom waaraan sy grond oewergrond is, kan opdam en opgaar; en
- (b) uitkeerwaterwerke bou waardeur hoogstens tien kubieke voet water per sekonde uitkeer kan word, deur middel waarvan hy surpluswater uit so 'n openbare stroom vir sy eie gebruik kan uitkeer.

(2) Die bepalings van sub-artikel (1) is nie van toepassing nie ten opsigte van 'n eenaar aan wie deur 'n waterhof vergunning verleen is om binne die in genoemde sub-artikel bedoelde opvanggebied opgaar- of uitkeerwaterwerke te bou en wat dit gebou het nie: Met dien verstande dat indien sodanige opgaarwerke van 'n kapasiteit benede vyf-en-twintigmiljoen gellings is of sodanige uitkeerwerke minder as tien kubieke voet water per sekonde kan uitkeer, die eenaar van bedoelde werke na gelang van die omstandighede—

- (a) bedoelde waterwerke kan vergroot om hoogstens vyf-en-twintigmiljoen gellings water daarin op te dam en op te gaar, of addisionele waterwerke kan bou waarin, tesame met bedoelde werke, in die geheel hoogstens vyf-en-twintigmiljoen gellings water opgegaar kan word; of
- (b) bedoelde waterwerke kan vergroot ten einde hom in staat te stel om hoogstens tien kubieke voet water per sekonde uit te keer, of addisionele waterwerke kan bou wat, tesame met bedoelde waterwerke, in staat sal wees om hoogstens tien kubieke voet water per sekonde uit te keer.

Bou van werke en uitneem van water in beskermde gebiede met toestemming van waterhof.

17. (1) Indien 'n eenaar van oewergrond in sub-artikel (1) van artikel sestiën bedoel, waterwerke daarop wil bou van 'n groter kapasiteit as wat in paragraaf (a) of (b) van daardie sub-artikel genoem word, kan hy by 'n waterhof om vergunning vir die bou van sodanige werke aansoek doen, en die waterhof kan vergunning vir die bou van daardie werke verleen of onvoor-

(3) Any such judge may, notwithstanding anything to the contrary contained in this Act, make an order permitting the use of such water for such period and subject to such terms and conditions as he may determine.

(4) If the said judge makes an order in terms of sub-section (3), and owners of land riparian to the public stream from which the temporary supply of water is abstracted in pursuance of the order, or any other persons who are entitled to the use of the water of such stream, are adversely affected by being temporarily deprived of the use of such water and have suffered loss as a result thereof, the said Administration shall pay to those owners or persons such compensation as may have been agreed upon or as may, at any time subsequent to the making of the order, and after due notice to the parties concerned, be determined by the said judge or any other judge of the same division of the Supreme Court.

(5) Any proceedings under this section shall for the purposes of this Act be deemed to be proceedings before a water court, and the judge presiding at such proceedings shall be deemed to be a water court judge.

(6) The use of water by the aforesaid Administration for railway purposes in the exercise of any right to water lawfully acquired by it from any riparian owner or otherwise lawfully enjoyed by it immediately prior to the commencement of this Act, shall be deemed to have been permitted by a water court.

15. Notwithstanding the repeal by this Act of the unrepealed provisions of the Irrigation and Conservation of Waters Act, 1912 (Act No. 8 of 1912), and of the Irrigation Amendment Act, 1934 (Act No. 46 of 1934), any permission granted or determination made or order issued or other act performed by a water court, and any undertaking or security given by any person, under section *fifteen* or *sixteen* of the said Irrigation and Conservation of Waters Act, 1912, prior to the commencement of the said Irrigation Amendment Act, 1934, shall remain of the same force and effect as if this Act had not been passed.

Saving in respect of areas protected under repealed provisions of Act 8 of 1912.

16. (1) An owner of riparian land situated within the catchment to which any permission, determination or order referred to in section *fifteen* relates, which is registered under separate title deed at the date of commencement of this Act, may, notwithstanding such permission, determination or order, construct on such land—

Limitation on construction of water works and abstraction of water in protected areas.

- (a) water works of a storage capacity not exceeding twenty-five million gallons in the aggregate in which he may impound and store for his own use surplus water in any public stream to which his land is riparian; and
- (b) diversion water works capable of diverting a flow of water not exceeding ten cubic feet per second by means of which he may divert for his own use surplus water from any such public stream.

(2) The provisions of sub-section (1) shall not apply in respect of an owner to whom permission has been granted by a water court to construct and who has constructed storage or diversion water works in the catchment referred to in the said sub-section: Provided that if such storage works are of a smaller capacity than twenty-five million gallons or such diversion works are capable of diverting a flow of less than ten cubic feet of water per second, the owner of such works may, according to the circumstances—

- (a) enlarge such water works to impound and store not more than twenty-five million gallons of water therein or construct additional water works which, together with such works, will be capable of storing in the aggregate not more than twenty-five million gallons of water; or
- (b) enlarge such water works to enable him to divert a flow of water not exceeding ten cubic feet per second or construct additional water works which, together with such water works, will be capable of diverting a flow of water not exceeding ten cubic feet per second.

17. (1) If an owner of riparian land referred to in sub-section (1) of section *sixteen* desires to construct thereon water works of a capacity exceeding that mentioned in paragraph (a) or (b) of that sub-section, he may apply to a water court for permission to construct such works, and the water court may grant permission for the construction of such works, either un-

Construction of works and abstraction of water in protected areas with permission of water court.

waardelik of onderworpe aan die wysigings en voorwaardes wat hy nodig ag, indien hy oortuig is dat die regte van persone aan wie, ingevolge 'n bevel in artikel *vyftien* bedoel, beskerming vir hul werke verleen is, nie daardeur benadeel sal word nie, en moet in so 'n geval tegelykertyd die hoeveelheid water vasstel wat die applikant uit hoofde van die vergunning kan opdam of uitkeer.

(2) Voordat hy ingevolge sub-artikel (1) vergunning verleen, moet die waterhof aan elke oewereienaar wat waarskynlik daardeur geraak sal word, 'n geleentheid bied om by die waterhof enige beswaar teen die verlening van die vergunning aan te teken, hetsy wat betref die hoeveelheid water bedoel om opgegaar of uitgekeer te word of wat betref enige ander aangeleentheid.

(3) 'n Besproeiingsraad wat geregtig mag wees om ingevolge sub-artikel (2) enige beswaar aan te teken, kan voor die waterhof verskyn namens persone wat vir die betaling van belasting aan die raad verantwoordelik is, en enige kennisgewing wat in verband met so 'n beswaar aan daardie persone besorg moet word, word geag behoorlik aan hulle besorg te gewees het indien bedoelde kennisgewing aan die raad besorg is.

Regering en persone wat beskerming geniet geregtig om werke in beskermde gebiede te bou.

18. (1) Indien die opgaarkapasiteit van 'n opgaarwerk ten opsigte waarvan voor die inwerkingtreding van die Besproeiings-Wysigingswet, 1934, deur 'n waterhof kragtens artikel *vyftien* of *sestien* van die „Besproeiings- en Waterbewarings Wet, 1912”, beskerming verleen is, weens toeslikking of om enige ander rede verminder het tot minder as die kapasiteit deur bedoelde waterhof gemagtig, kan die eienaar van daardie werk met toestemming van die waterhof bedoelde werk vergroot of in dieselfde openbare stroom bokant of onderkant eersbedoelde werk 'n ander opgaarwerk bou ten einde 'n totale hoeveelheid water wat in die geheel die aldus gemagtigde kapasiteit nie te bowe gaan nie, op te dam en op te gaar.

(2) Die Minister kan 'n Staatswaterwerk bou in enige opvanggebied waarop 'n vergunning, bepaling of bevel in artikel *vyftien* bedoel, betrekking het, en enige Staatswaterwerk binne so 'n opvanggebied voor die datum van inwerkingtreding van hierdie Wet aangelê of voltooi, word geag deur hierdie artikel gemagtig te gewees het.

(3) Indien enige werk kragtens sub-artikel (1) of (2) gebou, geleë is bokant die werk ten opsigte waarvan uit hoofde van die in sub-artikel (1) bedoelde bepalings beskerming verleen is, en die bou daarvan gelei het tot 'n vermindering in die aandeel van die water van die betrokke openbare stroom wat 'n laer oewereienaar, wie se grond geleë is in die opvanggebied waarop bedoelde beskerming betrekking het, geregtig is om op te dam of uit te keer deur middel van waterwerke wat op die datum van die aanvang van sodanige bouwerk bestaan en voordelig gebruik word, moet die eienaar wat daardie werk gebou het of die Minister, na gelang van die geval, of—

(a) aan daardie laer oewereienaar sodanige vergoeding betaal; of

(b) in plaas van die water van die gebruik waarvan daardie laer eienaar ontroof is, aan bedoelde eienaar van tyd tot tyd so 'n hoeveelheid water uit die aldus geboude werke voorsien,

as wat by ooreenkoms bepaal of by ontstentenis van ooreenkoms deur 'n waterhof vasgestel mag word.

Regsmiddel teen buitensporige opgaring, opdamming of uitkering van surpluswater.

19. 'n Eienaar van grond wat oewergrond aan 'n openbare stroom is, wat hom veronreg voel deur die opgaring, opdamming of uitkering deur 'n hoër oewereienaar langs daardie stroom van 'n groter hoeveelheid van die surpluswater daarvan as wat hy redelikerwys geregtig mag wees om te gebruik, kan by 'n waterhof aansoek doen om by bevel die hoeveelheid water vas te stel wat daardie hoër oewereienaar volgens genoemde hof se oordeel geregtig is om op te gaar, op te dam of uit te keer, en daarna is genoemde hoër eienaar nie geregtig om 'n groter hoeveelheid water as die aldus vasgestelde hoeveelheid op te gaar, op te dam of uit te keer nie: Met dien verstande dat 'n waterhofbevel kragtens hierdie artikel verleen, geen inbreuk maak nie op die gebruik, genot of uitoefening van enige reg wat tevore bestaan het, of op 'n vergunning om surpluswater op te gaar, op te dam of uit te keer, wat tevore ooreenkomstig 'n bevel van 'n waterhof kragtens hierdie Wet of 'n vorige wet verleen is, tensy bedoelde vergunning voor die inwerkingtreding van die Besproeiings-Wysigingswet, 1934, kragtens sub-artikel (3) van artikel *sestien* van die „Besproeiings- en Waterbewarings Wet, 1912”, ingetrek was, of uit hoofde van die bepalings van daardie artikel verval het.

conditionally or subject to such modifications and conditions as it may deem necessary, if it is satisfied that the rights of persons who have been granted protection in respect of their works in terms of any order referred to in section *fifteen* will not be adversely affected thereby, and shall in that event at the same time determine the amount of water which the applicant may by virtue of such permission impound or divert.

(2) Before granting any permission under sub-section (1), the water court shall afford every riparian owner who is likely to be affected thereby an opportunity to raise any objection before it to the granting of such permission, whether as regards the amount of water proposed to be stored or diverted or as regards any other matter.

(3) An irrigation board which may be entitled to raise any objection under sub-section (2) may appear before the water court on behalf of the persons liable for the payment of rates to the board, and any notice required to be served on such persons in connection with any such objection shall be deemed to have been duly served on them if the said notice has been served on the board.

18. (1) If the storage capacity of a storage work in respect of which protection has prior to the commencement of the Irrigation Amendment Act, 1934, been granted by a water court under section *fifteen* or *sixteen* of the Irrigation and Conservation of Waters Act, 1912, has become reduced by siltation or any other cause to less than the capacity authorized by such water court, the owner of such work may, with the permission of the water court, enlarge the said work or construct another storage work in the same public stream above or below the first-mentioned work in order to impound and store a total quantity of water not exceeding in the aggregate the capacity so authorized.

Rights of Government and persons enjoying protection to construct works in protected areas.

(2) The Minister may construct a Government water work in any catchment to which a permission, determination or order referred to in section *fifteen* relates, and any Government water work within such a catchment commenced or completed before the date of commencement of this Act shall be deemed to have been authorized by this section.

(3) If any work constructed in terms of sub-section (1) or (2) is situated above the work in respect of which protection has been granted by virtue of the provisions referred to in sub-section (1), and its construction has resulted in a diminution of the share of the water of the public stream in question which any lower riparian owner, whose land is situated in the catchment to which such protection relates, is entitled to impound or divert by means of water works existing and being beneficially used at the date of commencement of such construction, the owner who has constructed such work or the Minister, as the case may be, shall either—

- (a) pay to that lower riparian owner such compensation; or
- (b) in lieu of the water of the use whereof such lower owner has been deprived, supply such owner from time to time with such a quantity of water from the works so constructed,

as may be agreed upon or failing agreement determined by a water court.

19. An owner of land riparian to a public stream who feels aggrieved by the storage, impoundment or diversion by an upper riparian owner along such stream of a greater quantity of the surplus water thereof than he could reasonably be entitled to use, may apply to a water court for an order determining the quantity of water which, in the opinion of the said court, the said upper owner shall be entitled to store, impound or divert, and thereafter the said upper owner shall not be entitled to store, impound or divert a greater quantity of water than the quantity so determined: Provided that no order of a water court under this section shall interfere with the use, enjoyment or exercise of any right previously held, or any permission previously granted in terms of an order made by a water court under this Act or any prior law to store, impound or divert surplus water, unless such permission was cancelled under sub-section (3) of section *sixteen* of the Irrigation and Conservation of Waters Act, 1912, prior to the commencement of the Irrigation Amendment Act, 1934, or has lapsed by virtue of the provisions of the said section.

Remedy against excessive storage, impoundment or diversion of surplus water.

Regte van
oewereienaars
in geval van
verandering in
die loop van
openbare stroom.

20. (1) Waar 'n openbare stroom wat die grens tussen twee of meer stukke oewergrond daaraan uitmaak, as gevolg van natuurlike oorsake ophou om tussen daardie stukke grond te vloei of hulle te skei, en in 'n nuwe loop gekeer word, bly die grense van die onderskeie stukke grond dieselfde asof daar nie so 'n verandering in die loop plaasgevind het nie, en so 'n verandering ontroof 'n eienaar van oewergrond wat weens die verandering van bedoelde openbare stroom afgesny mag word, nie van sy oewerrechte met betrekking tot daardie stroom nie, en daardie regte bly voortbestaan en word in ag geneem asof bedoelde stroom nie aldus van koers verander het nie.

(2) 'n In sub-artikel (1) bedoelde eienaar kan te eniger tyd binne 'n tydperk van tien jaar nadat die verandering in die loop van die openbare stroom waaraan sy grond oewergrond is, plaasgevind het, by 'n waterhof aansoek doen om 'n bevel waarby die plek of plekke langs die nuwe loop van genoemde stroom voorgeskryf word wat aan die waterhof nodig blyk vir die praktiese uitoefening deur bedoelde eienaar van sy oewerrechte, en die waterhof verleen op so 'n aansoek aan daardie eienaar 'n toegangsreg tot die betrokke openbare stroom by bedoelde plek of plekke langs 'n gerieflike lyn deur die waterhof vasgestel ten einde daardie eienaar in staat te stel om water van bedoelde stroom te neem en te vervoer vir die doeleindes waarvoor hy ingevolge hierdie Wet geregtig is om water daarvan te gebruik.

(3) Wanneer so 'n verandering in die loop van 'n openbare stroom tot nadeel van 'n oewereienaar daaraan is, kan hy binne vyf jaar nadat die verandering plaasgevind het, by die waterhof aansoek doen om toestemming tot die bou van sodanige werke as wat volgens die waterhof se oordeel nodig mag wees om die stroom tot sy vorige bedding terug te voer.

Suiwering van en
beskikking oor
nywerheids- en
afloopwater.

21. (1) (a) Die suiwering van afvalwater of afloop of afval wat verkry word deur of ontstaan uit die gebruik van water vir nywerheidsdoeleindes, maak 'n integreerende deel van die proses van sodanige gebruik uit, en behoudens die bepalinge van sub-artikel (5), moet enigiemand wat water vir nywerheidsdoeleindes gebruik, sodanige water, afloop of afval suiwer sodat dit voldoen aan die vereistes wat die Minister van tyd tot tyd, na oorlegpleging met die Suid-Afrikaanse Buro vir Standaarde, by kennisgewing in die *Staatskoerant*, hetsy algemeen of met betrekking tot water gebruik vir of in verband met een of meer vermelde nywerheidsdoeleindes, voorskryf.

(b) Enige vereistes ingevolge paragraaf (a) voorgeskryf, moet sodanig wees om te verseker dat die afvalwater, afloop of afval waarop sodanige vereistes betrekking het, na suiwering ooreenkomstig bedoelde vereistes minstens so vry van onsuiverhede sal wees as wat die geval sou gewees het indien die suiwering daarvan ooreenkomstig die aanbeveling van bedoelde Buro geskied het.

(2) Openbare water wat vir nywerheidsdoeleindes gebruik is, en enige afloop wat deur sodanige gebruik verkry word of daaruit ontstaan, behalwe water of afloop in sub-artikel (3) bedoel, moet behoudens die bepalinge van artikel *elf*, na suiwering ooreenkomstig sub-artikel (1), deur die gebruiker by die naaste gerieflike plek na die bedding van die openbare stroom waaruit daardie water geneem is, teruggevoer word: Met dien verstande dat waar water aldus gebruik is op 'n plek geleë buite die natuurlike waterskeiding van die opvanggebied van 'n openbare stroom waaruit dit geneem is, en dit volgens die waterhof se oordeel weens fisiese of ekonomiese redes ondoenlik is om daardie water of sodanige afloop na bedoelde stroom terug te voer, daardie water of afloop deur die gebruiker op 'n plek wat die waterhof bepaal na die bedding van 'n ander openbare stroom teruggevoer mag word.

(3) Die bepalinge van sub-artikels (1) en (2) is nie van toepassing nie ten opsigte van iemand aan wie water voorsien word deur die Minister of deur 'n plaaslike bestuur of ander persoon of wettiglik saamgestelde liggaam wat die reg het om openbare of private water, insluitende onderaardse water, binne sy regsgebied te beheer en te voorsien, indien die Minister of, al na die geval, bedoelde plaaslike bestuur, persoon of liggaam of enige ander plaaslike bestuur onderneem het om oor daardie water of enige afvalwater of afloop wat uit die gebruik van daardie water verkry is of ontstaan het, te beskik nadat die water deur genoemde persoon gebruik is en in 'n kanaal, afvoersloot of riool onder die beheer van die Minister of die betrokke plaaslike bestuur, persoon of liggaam afgelaat is.

20. (1) Where owing to natural causes a public stream which constitutes the boundary between two or more pieces of land riparian thereto, ceases to flow between or separate such pieces of land and is diverted to a new course, the boundaries of the several pieces of land shall remain as if no such change of course had taken place, and no such change of course shall deprive an owner of riparian land which may be cut off from such public stream by reason of such change of his riparian rights in relation to such stream, which rights shall remain and be regarded as if the said stream had not been so diverted.

Rights of riparian owners in event of change of course of public stream.

(2) An owner referred to in sub-section (1) may at any time within a period of ten years after the change in the course of the public stream to which his land is riparian apply to a water court for an order prescribing such point or points on the new course of the said stream as to the water court may appear necessary for the practical exercise by such owner of his riparian rights, and the water court shall upon such application grant to that owner a right of access to the public stream in question at such point or points along a convenient line to be determined by it as will enable the said owner to take and convey water from such stream for the purposes for which he is entitled to use water therefrom under this Act.

(3) When any such change in the course of a public stream is to the detriment of any owner riparian thereto, he may, within five years after the change has taken place, apply to the water court for permission to construct such works as in the opinion of the water court may be necessary for the restoration of such stream to its former channel.

21. (1) (a) The purification of any waste water or any effluent or waste produced by or resulting from the use of water for industrial purposes shall form an integral part of the process of such use and, subject to the provisions of sub-section (5), any person using water for industrial purposes shall purify such water, effluent or waste so as to conform to such requirements as the Minister may from time to time after consultation with the South African Bureau of Standards, prescribe by notice in the *Gazette* either generally or in relation to water used for or in connection with any one or more specified industrial purposes.

Purification and disposal of industrial water and effluents.

(b) Any requirements prescribed under paragraph (a) shall be such as to ensure that the waste water, effluent or waste to which such requirements relate will, after purification in accordance with those requirements, be at least as free of impurities as would have been the case if the purification thereof had been effected in accordance with the recommendation of the said Bureau.

(2) Public water which has been used for industrial purposes and any effluent produced by or resulting from such use, other than water or effluent referred to in sub-section (3), shall, subject to the provisions of section *eleven*, after purification in accordance with sub-section (1), be returned by the user at the nearest convenient point to the bed of the public stream from which the said water was abstracted: Provided that where water has been so used at any place outside the natural watershed of the catchment area of a public stream from which it was abstracted and in the opinion of the water court it is for physical or economic reasons impracticable to return such water or any such effluent to the said stream, such water or effluent may be returned by the user to the bed of some other public stream at a point determined by the water court.

(3) The provisions of sub-sections (1) and (2) shall not apply in respect of a person supplied with water by the Minister or by any local authority or other person or lawfully constituted body having a right to control and supply public or private water, including underground water, within its area of jurisdiction, if the Minister or, as the case may be, such local authority, person or body or any other local authority has undertaken the duty of disposing of such water or any effluent or waste produced by or resulting from the use thereof after such water has been used by the said person and has been discharged into any channel, drain or sewer under the control of the Minister or the local authority, person or body concerned.

(4) Water wat vir nywerheidsdoleindes gebruik en ooreenkomstig sub-artikel (2) teruggevoer word, mag nie in hoeveelheid verminder word nie behalwe vir sover die vermindering uit sodanige gebruik ontstaan.

(5) (a) Enige persoon of gebruiker in sub-artikel (1) of (2) bedoel, kan by die Minister om 'n permit wat hom vrystel van voldoening aan die bepalings van een of ander van daardie sub-artikels aansoek doen, en die Minister kan, na sodanige ondersoek as wat hy nodig ag, indien hy oortuig is dat voldoening aan bedoelde bepalings onder die besondere omstandighede onprakties is, 'n permit verleen onderworpe aan die voorwaardes wat hy mag goetvind om op te lê waarby bedoelde persoon of gebruiker van voldoening daaraan vrygestel word in die mate wat die Minister mag bepaal, of waarby bedoelde persoon of gebruiker gemagtig word om enige in sub-artikel (1) bedoelde afvalwater, afloop of afval in 'n ongesuiwerde toestand of in so 'n gedeeltelik gesuiwerde toestand as wat die Minister mag bepaal, by 'n plek deur die Minister vasgestel in 'n openbare stroom in te keer: Met dien verstande dat in die geval van 'n aansoek om vrystelling van voldoening aan die bepalings van sub-artikel (1), die Minister by die oorweging van die aansoek behoorlik met die regulasies uitgevaardig kragtens paragraaf (d) van sub-artikel (1) van artikel tien van die Strandwet, 1935 (Wet No. 21 van 1935), rekening moet hou, en nie so 'n permit uitreik nie tensy hy oortuig is dat—

- (i) die voorwaardes wat in verband met sodanige permit opgelê staan te word, minstens so doeltreffend sal wees om besoedeling van openbare of ander water, insluitende seewater, te verhoed as enige voorwaardes of vereistes wat deur die Suid-Afrikaanse Buro vir Standaarde aanbeveel mag gewees het; en
 - (ii) enige aldus deur hom vasgestelde plek so naby aan die see geleë is, dat dit onwaarskynlik is dat enigiemand anders benadeel sal word, en dat bedoelde afvalwater, afloop of afval in so 'n mate deur seewater of ander water in bedoelde stroom verdun sal word, dat nóg water- nóg seefauna of -flora in die openbare stroom of in die see nadelig getref sal word.
- (b) Enige belanghebbende, behalwe 'n applikant om 'n permit ingevolge paragraaf (a), kan na skriftelike kennisgewing aan die Minister, by 'n waterhof om die intrekking of wysiging van 'n kragtens daardie paragraaf uitgereikte permit aansoek doen, en die waterhof kan op die aansoek so 'n bevel uitvaardig as wat hy billik ag.
- (c) Die Minister kan te eniger tyd by skriftelike kennisgewing aan die houer van 'n permit kragtens paragraaf (a) uitgereik, daardie permit intrek of dit wysig op die wyse wat hy goetvind.
- (6) (a) Die Minister kan, wanneer hy enige vereistes kragtens sub-artikel (1) voorskryf, of enige voorwaardes kragtens sub-artikel (5) oplê, ook die stappe vermeld wat deur enige persoon wat mynbou- of ander nywerheids-werksaamhede dryf, gedoen moet word ten einde die besoedeling van openbare of private water, insluitende onderaardse water, deur sydeling of dreinerings vanaf enige gebied waar sodanige werksaamhede gedryf word, te voorkom, sowel terwyl bedoelde werksaamhede aan die gang is as nadat dit gestaak is.
- (b) So 'n persoon wat versuim om die aldus vermeldde stappe te doen binne 'n tydperk wat deur die Minister vasgestel en by kennisgewing in die *Staatskoerant* of by skriftelike kennisgewing gerig aan bedoelde persoon bekend gemaak is, is aan 'n misdryf skuldig.
- (7) By die toepassing van hierdie artikel word 'n plaaslike bestuur wat water vir die suiwering van of beskikking oor rioolvuil of enige ander in sub-artikel (3) bedoelde afvalwater of afloop gebruik, geag sodanige water vir nywerheidsdoleindes te gebruik.
- (8) Iemand wat die bepalings van hierdie artikel oortree of versuim om daaraan te voldoen, is aan 'n misdryf skuldig.

Beskikking oor
afloop deur
plaaslike bestuure.

22. (1) Ondanks die bepalings van die „Volksgezonheidswet, 1919” (Wet No. 36 van 1919), of enige ander wet, maar onderworpe aan die bepalings van sub-artikel (2), kan 'n plaaslike bestuur wat regsbevoeg is om oor rioolvuil te beskik, na die

(4) Water used for industrial purposes and returned in accordance with sub-section (2), shall not be diminished in quantity save in so far as such diminution is caused by such use.

(5) (a) Any person or user referred to in sub-section (1) or (2) may apply to the Minister for a permit exempting him from compliance with the provisions of either of those sub-sections, and the Minister may, after such investigation as he may consider necessary, if he is satisfied that compliance with the said provisions is impracticable in the particular circumstances, grant a permit subject to such conditions as he may deem fit to impose, exempting such person or user from compliance therewith to such extent as the Minister may determine, or authorizing such person or user to discharge any waste water, effluent or waste referred to in sub-section (1) in an unpurified state or in such state of semi-purification as the Minister may determine, into any public stream at a point to be fixed by the Minister: Provided that, in the case of an application for exemption from compliance with the provisions of sub-section (1), the Minister shall in considering such application have due regard to the regulations made under paragraph (d) of sub-section (1) of section *ten* of the Sea-shore Act, 1935 (Act No. 21 of 1935), and shall not issue such a permit unless he is satisfied that—

(i) the conditions to be imposed in connection with any such permit will be at least as effective for the purpose of preventing the pollution of public or other water, including sea water, as any conditions or requirements which may have been recommended by the South African Bureau of Standards; and

(ii) any point so fixed by him is in such proximity to the sea that it is unlikely that any other person will be prejudicially affected and that the dilution of such waste water, effluent or waste by sea water or other water contained in the said stream will be such that neither aquatic nor marine fauna or flora in the public stream or the sea will be detrimentally affected.

(b) Any interested person, other than an applicant for a permit under paragraph (a), may after written notification to the Minister apply to a water court for the cancellation or modification of any permit issued under that paragraph, and the water court may make such order on the application as it may consider equitable.

(c) The Minister may at any time by notice in writing to the holder of any permit issued in terms of paragraph (a), withdraw that permit or amend it in such manner as he may deem fit.

(6) (a) The Minister may in prescribing any requirements under sub-section (1) or imposing any conditions under sub-section (5), also specify the steps to be taken by any person carrying on any mining or other industrial operations, in order to prevent the pollution of public or private water, including underground water, by seepage or drainage from any area on which those operations are carried on both while such operations are in progress and after the abandonment thereof.

(b) Any such person who fails to take the steps so specified within a period determined by the Minister and made known by notice in the *Gazette* or by notice in writing addressed to such person, shall be guilty of an offence.

(7) For the purposes of this section, a local authority which uses water for the purification or disposal of sewage or any effluent or waste referred to in sub-section (3), shall be deemed to use such water for industrial purposes.

(8) Any person who contravenes or fails to comply with the provisions of this section shall be guilty of an offence.

22. (1) Notwithstanding the provisions of the Public Health Act, 1919 (Act No. 36 of 1919), or any other law, but subject to the provisions of sub-section (2), a local authority having jurisdiction over the disposal of sewage may, after purifying

Disposal of effluents by local authorities.

suiwering van die afloop verkry deur die behandeling van sodanige rioolvuil ooreenkomstig die standaard kragtens sub-artikel (1) van artikel *een-en-twintig* voorgeskryf, en met toestemming van die Minister, sodanige afloop gebruik vir enige deur die Minister goedgekeurde doel of sodanige afloop vir gebruik deur enige persoon beskikbaar stel, of sodanige afloop in 'n openbare stroom inkeer.

(2) Die Minister kan, op die voorwaardes wat hy goedvind, 'n plaaslike bestuur wat nie oor water beskik wat vir 'n ander nywerheidsdoel as die suiwering van en beskikking oor rioolvuil gebruik word nie, skriftelik van voldoening aan die bepaling van artikel *een-en-twintig* vrystel.

(3) 'n Plaaslike bestuur wat 'n voorwaarde onderworpe waaraan enige vrystelling kragtens sub-artikel (2) aan hom verleen is, oortree of versuim om daaraan te voldoen, is aan 'n misdryf skuldig.

Voorkoming van
besoedeling van
water.

23. (1) Iemand wat opsetlik of op nalatige wyse, en, waar enige bepaling van artikel *een-en-twintig* of *twee-en-twintig* van toepassing is, in stryd met daardie bepaling enigiets doen waardeur openbare of private water, insluitende onderaardse water, op so 'n wyse besoedel word dat dit minder geskik word vir die doeleindes waarvoor dit gewoonlik gebruik word deur ander persone (met inbegrip van die Regering, die Suid-Afrikaanse Spoorweg- en Hawensadministrasie en 'n provinsiale administrasie) wat 'n reg op die gebruik daarvan het, of vir die voortplanting van vis- of ander waterlewe, of vir ontspannings- of ander regmatige doeleindes, is aan 'n misdryf skuldig.

(2) (a) Die Minister kan, uit gelde vir die doel deur die Parlement bewillig, enige stappe doen wat hy nodig ag om die besoedeling van openbare of private water, insluitende onderaardse water, as gevolg van sydeling of dreinerings vanaf enige gebied waar mynbou- of ander nywerheidswerksaamhede gedryf was, nadat sodanige werksaamhede gestaak is, te voorkom, en kan na goeë dinge die koste of enige gedeelte van die koste in verband met die neem van bedoelde stappe aangegaan, verhaal op enige persoon wat bedoelde werksaamhede gedryf het of geregtig is om dit te dryf.

(b) Die Minister, of 'n persoon deur hom daartoe gemagtig, kan te eniger tyd grond betree met die doel om enige van die in paragraaf (a) bedoelde stappe te doen, en kan met hom op bedoelde grond sodanige manne, diere, voertuie, toerusting, toestelle, instrumente, voorrade of materiaal neem, en kan sodanige kampe oprig en sodanige werke aanbou as wat vir daardie doel nodig mag wees.

(c) Geen vergoeding is aan enige persoon betaalbaar vir enige verlies wat hy mag ly as gevolg van enige stappe ingevolge hierdie sub-artikel gedoen nie, behalwe op bevel van 'n bevoegde hof.

Inwerkingtreding
van artikel 21
met betrekking tot
sekere persone.

24. Die Minister kan van tyd tot tyd aan enigiemand vrystelling van die toepassing van enige bepaling van artikel *een-en-twintig* verleen: Met dien verstande dat so 'n vrystelling nie verleen word nie ten opsigte van enige tydperk wat eindig op 'n datum meer as drie jaar na die inwerkingtreding van hierdie Wet of so 'n later datum, nie later as vyf jaar na bedoelde inwerkingtreding nie, as wat die Goewerneur-generaal met goedkeuring, by besluit, van beide Huisse van die Parlement by proklamasie in die *Staatskoerant* mag bepaal.

Voorbehoud ten
opsigte van sekere
persone en
grond-erosiewerke.

25. (1) Die bepalinge van hierdie Hoofstuk word nie so uitgelê dat dit—

(a) iemand wat voor die eerste dag van Julie 1912 werke vir die aanwending van water van enige stroom gebou of in aanbou gehad het, verplig om water wat hy deur middel of vir die doeleindes van sy werke voordelig sou kon gebruik en wat hy op daardie datum geregtig was om aldus te gebruik, by sy werke te laat verbyvloei nie; of

(b) iemand wat voor die eerste dag van Julie 1912 water van enige stroom vir landboudeleindes op nie-oewergrond gebruik het en geregtig was om dit te gebruik, belet om met sodanige gebruik van daardie water voort te gaan nie; of

(c) iemand belet om op sy eie grond enige handeling te verrig wat nodig mag wees om grond-erosie te verhoed, mits hy nie daardeur openbare water weens onvoordelige opgaring of terughouding daarvan of onvoordelige oorstroming van die veld vermors nie.

the effluent derived from the treatment of such sewage in accordance with standards prescribed under sub-section (1) of section *twenty-one*, and with the permission of the Minister, use such effluent for any purpose approved by the Minister or dispose of such effluent for use by any person or discharge such effluent into a public stream.

(2) The Minister may in writing, and on such conditions as he may deem fit, exempt from compliance with the provisions of section *twenty-one*, any local authority which does not dispose of water used for any industrial purpose other than the purification or disposal of sewage.

(3) Any local authority which contravenes or fails to comply with any condition subject to which any exemption has been granted to it under sub-section (2) shall be guilty of an offence.

23. (1) Any person who wilfully or negligently, and, where any provision of section *twenty-one* or *twenty-two* applies, contrary to that provision, does any act whereby any public or private water, including underground water, is polluted in such a way as to render it less fit for the purposes for which it is ordinarily used by other persons (including the Government, the South African Railways and Harbours Administration and any provincial administration) entitled to the use thereof, or for the propagation of fish or other aquatic life, or for recreational or other legitimate purposes, shall be guilty of an offence.

Prevention of pollution of water.

(2) (a) The Minister may out of moneys appropriated by Parliament for the purpose, take any steps which he may consider necessary to prevent the pollution, as a result of seepage or drainage from any area on which mining or other industrial operations have been carried on, of public or private water, including underground water, after such operations have been abandoned, and may in his discretion recover the cost or any part of the cost incurred in taking such steps from any person who carried on or is entitled to carry on such operations.

(b) The Minister or a person acting under his authority may at any time enter upon any land for the purpose of taking any steps referred to in paragraph (a), and may take with him on to such land any men, animals, vehicles, equipment, appliances, instruments, stores or materials, and may erect such camps and construct such works as may be necessary for that purpose.

(c) No compensation shall be payable to any person for any loss which may be sustained by him in consequence of any action taken under this sub-section, except by order of a competent court.

24. The Minister may from time to time grant exemption from the operation of any provision of section *twenty-one* to any person: Provided that no such exemption shall be granted in respect of any period ending on a date more than three years after the commencement of this Act or such later date, not more than five years after the said commencement, as may with the consent, by resolution, of both Houses of Parliament, be determined by the Governor-General by proclamation in the *Gazette*.

Commencement of section 21 in relation to certain persons.

25. (1) Nothing in this Chapter contained shall be construed as—

Savings in respect of certain persons and soil erosion works.

(a) compelling any person who, prior to the first day of July, 1912, constructed or had in course of construction, works for the use of water of any stream, to allow to flow down past his works water which he could beneficially use by means of or for the purpose of his works and which he was at that date entitled so to use; or

(b) preventing any person who, prior to the first day of July, 1912, used and was entitled to use the water of any stream for agricultural purposes on non-riparian land, from continuing so to use such water; or

(c) preventing any person from doing on his own land any act necessary to prevent the erosion thereof, provided he does not thereby waste public water through the unbeneficial storage or detention thereof or the unbeneficial flooding of veld.

(2) Die opgaring of terughouding van openbare water of die gebruik van openbare water vir die oorstrooming van veld, vir sover dit redelikerwys nodig mag wees in verband met enige grondbewaringswerk wat kragtens die bepalings van die Grondbewaringswet, 1946 (Wet No. 45 van 1946), gemagtig is, word nie geag onvoordelige opgaring, terughouding of gebruik van daardie water te wees nie: Met dien verstande dat die Minister ten opsigte van enige openbare stroom by kennisgewing in die *Staatskoerant* sodanige spesifikasies en voorwaardes, onderworpe waaraan grondbewaringswerke aangebou mag word, kan voorskryf as wat hy nodig ag om te verseker dat openbare water nie tot nadeel van laer oewereienaars of enige eienaar van 'n waterwerk ten opsigte waarvan voor die inwerkingtreding van die Besproeiings-Wysigingswet, 1934, beskerming kragtens artikel vyftien of sestien van die „Besproeiings- en Waterbewarings Wet, 1912”, verleen is, op 'n wyse wat verkwingstoring meebring, opgegaar of teruggehou of vir die oorstrooming van veld gebruik word nie.

(3) Iemand wat versuim om aan enige ingevolge sub-artikel (2) voorgeskrewe spesifikasies of voorwaardes te voldoen, is aan 'n misdryf skuldig.

Regulasies betreffende permitte en beheer oor besoedeling van water.

26. Die Minister kan regulasies uitvaardig betreffende—
- (a) die vorm van aansoek om permitte onder artikel *twaaft* en die besonderhede wat in verband met so 'n aansoek of onder paragraaf (a) van sub-artikel (1) van artikel *twaaft* verstrekk moet word;
 - (b) die vorm van enige aansoek onder sub-artikel (5) van artikel *een-en-twintig*, en die besonderhede wat in verband met so 'n aansoek verstrekk moet word;
 - (c) die voorkoming van verspilling of besoedeling van openbare of private water, insluitende onderaardse water, en die bevoegdheid en pligte van persone aangestel om in verband daarmee beheer uit te oefen;
 - (d) oor die algemeen enige ander aangeleentheid wat hy nodig of dienstig ag om voor te skryf sodat die oogmerke van artikels *een-en-twintig* tot en met *vier-en-twintig* verwesenlik kan word.

HOOFSTUK III.

BEHEER EN GEBRUIK VAN ONDERGRONDSE WATER EN WATER WAT ONDERGRONDS VERKRY WORD.

Omskrywing van ondergrondse water.

27. In hierdie Hoofstuk beteken „ondergrondse water” water wat natuurlik ondergronds bestaan, of water ondergronds verkry, wat binne die gebiede kragtens artikel *agt-en-twintig* tot ondergrondse waterbeheergebiede verklaar, voorkom.

Goewerneur-generaal kan ondergrondse waterbeheergebiede proklameer.

28. (1) Die Goewerneur-generaal kan van tyd tot tyd by proklamasie in die *Staatskoerant* 'n in die proklamasie omskrewe gebied tot 'n ondergrondse waterbeheergebied verklaar indien die Minister van oordeel is dat daardie gebied 'n dolomiet- of artesies-geologiese gebied is, of dat die uithaal van water wat natuurlik ondergronds in bedoelde gebied bestaan, tot buitensporige vermindering van ondergrondse watervoorrade in daardie gebied mag lei, en kan so 'n proklamasie op dergelyke wyse intrek of wysig.

(2) Enige gebied wat ingevolge die bepalings van artikel *vyf-en-twintig* van die „Besproeiings- en Waterbewarings Wet, 1912” (Wet No. 8 van 1912), tot 'n dolomiet-geologiese gebied verklaar is, word geag kragtens hierdie artikel 'n ondergrondse waterbeheergebied verklaar te gewees het.

Vermoede ten opsigte van ondergrondse water.

29. Alle ondergrondse water word, totdat die teendeel bewys word, geag in bepaalde kanale voor te kom of daarin te vloei.

Gebruik van ondergrondse water.

30. (1) 'n Eienaar van grond is behoudens die bepalings van sub-artikel (2), geregtig om ondergrondse water daaronder vir sy eie gebruik vir enige doel op daardie grond uit te haal of te verkry.

(2) Die Minister kan met betrekking tot 'n ondergrondse waterbeheergebied die regulasies uitvaardig wat hy nodig ag om beheer uit te oefen oor die maak van boorgate ten einde water vir gebruik vir enige doel te verkry, die grawe van putte en die uithaal, beskerming teen besoedeling en bewaring van ondergrondse water wat in daardie gebied voorkom, met inbegrip van regulasies om die aantal boorgate of putte wat in so 'n gebied gemaak mag word of die hoeveelheid water wat deur middel van 'n boorgat of put hetsy voor of na die inwerkingtreding van hierdie Wet gemaak, geneem mag word, te beperk, of om die maak

(2) The storage or detention of public water or the use of public water for the flooding of veld, in so far as may be reasonably necessary in connection with any soil conservation work authorized in terms of the Soil Conservation Act, 1946 (Act No. 45 of 1946), shall not be deemed to constitute unbeneficial storage, detention or use of such water: Provided that the Minister may, in respect of any public stream, by notice in the *Gazette* prescribe such specifications and conditions subject to which any soil conservation works may be constructed, as he may consider necessary to ensure that public water will not be wastefully stored or detained or used for the flooding of veld to the prejudice of lower riparian owners or any owner of a water work in respect of which protection was prior to the commencement of the Irrigation Amendment Act, 1934, granted under section *fifteen* or *sixteen* of the Irrigation and Conservation of Waters Act, 1912.

(3) Any person who fails to comply with any specifications or conditions prescribed in terms of sub-section (2) shall be guilty of an offence.

26. The Minister may make regulations relating to—

Regulations as to permits and control of pollution of water.

- (a) the form of application for permits under section *twelve* and the particulars to be furnished in connection with any such application or under paragraph (a) of sub-section (1) of section *twelve*;
- (b) the form of any application under sub-section (5) of section *twenty-one*, and the particulars to be furnished in connection with any such application;
- (c) the prevention of wastage or pollution of public or private water, including underground water, and the powers and duties of persons appointed to exercise control in respect thereof;
- (d) generally, any other matter which he considers it necessary or expedient to prescribe in order that the objects of sections *twenty-one* to *twenty-four*, inclusive may be achieved.

CHAPTER III.

CONTROL AND USE OF SUBTERRANEAN WATER AND WATER FOUND UNDERGROUND.

27. In this Chapter "subterranean water" means such water naturally existing underground, or abstracted therefrom as is contained within the areas declared to be subterranean water control areas under section *twenty-eight*.

Definition of subterranean water.

28. (1) The Governor General may from time to time by proclamation in the *Gazette* declare any area defined in the proclamation to be a subterranean water control area if the Minister is of the opinion that such area is a dolomite or artesian geological area or that the abstraction of water naturally existing underground in such area may result in undue depletion of its underground water resources, and may in like manner withdraw or amend such proclamation.

Governor-General may proclaim subterranean water control areas.

(2) Any area which has in terms of section *twenty-five* of the Irrigation and Conservation of Waters Act, 1912 (Act No. 8 of 1912), been declared to be a dolomitic geological area shall be deemed to have been declared to be a subterranean water control area under this section.

29. All subterranean water shall, until the contrary is proved, be presumed to be contained in or to flow in defined channels.

Presumption in respect of subterranean water.

30. (1) Subject to the provisions of sub-section (2), an owner of land is entitled to abstract or obtain any subterranean water thereunder for his own use for any purpose on such land.

Use of subterranean water.

(2) The Minister may in relation to any subterranean water control area, make such regulations as he may deem necessary for exercising control over the drilling of boreholes for the purpose of locating water for use for any purpose, the sinking of wells and the abstraction, protection against pollution and preservation of subterranean water contained in such area, including regulations limiting the number of boreholes or wells which may be sunk in any such area or the quantity of water which may be abstracted by means of any borehole or well, whether sunk before or after the commencement of this Act,

van sodanige boorgate of putte te verbied behalwe met toestemming van die Minister of iemand wat op sy gesag handel, en onderworpe aan die voorwaardes wat hy mag bepaal.

(3) 'n In sub-artikel (1) bedoelde eienaar mag nie sonder 'n permit kragtens sub-artikel (5) deur die Minister uitgereik, ondergrondse water wat hy ooreenkomstig sub-artikel (1) uitgehaal of verkry het, aan enigiemand vir gebruik op ander grond verkoop, gee of andersins van die hand sit of sodanige water nadat dit aldus uitgehaal of verkry is, vir sy eie gebruik oor die grense van sy grond vervoer nie.

(4) (a) Die eienaar van 'n myn waar mynbouwerksaamhede wettiglik gedryf word, kan uit die myngebied enige ondergrondse water verwyder waarvan die verwydering vir die doeltreffende voortsetting van bedoelde mynbouwerksaamhede of die veiligheid van daarby werksame persone nodig is, en kan, tensy die Minister anders gelas, sodanige water by daardie mynbouwerksaamhede of vir daaraan verbonde huishoudelike doeleindes gebruik, en kan kragtens 'n permit van die Minister daardie water vir ander doeleindes gebruik of daardie water verkoop, gee of verruil of andersins daarvoor beskik.

(b) So 'n eienaar wat sodanige water nie aldus gebruik, verkoop, gee of verruil nie, moet daarvoor beskik op die wyse wat die Minister gelas.

(5) Die Minister kan, onderworpe aan die voorwaardes wat hy goedvind—

(a) op aansoek van 'n in sub-artikel (1) bedoelde eienaar aan daardie eienaar 'n permit uitreik wat aan hom die reg verleen om ondergrondse water ingevolge daardie sub-artikel deur hom uitgehaal of verkry, vir sy eie gebruik oor die grense van die grond waarop dit uitgehaal of verkry is, te vervoer, of om sodanige water aan 'n ander persoon vir gebruik op ander grond te verkoop, te gee of andersins van die hand te sit; of

(b) op aansoek van die eienaar van 'n myn in sub-artikel (4) bedoel, aan daardie eienaar 'n permit uitreik wat aan hom die reg verleen om ondergrondse water wat ingevolge daardie sub-artikel uit bedoelde myn verwyder is, te gebruik, te verkoop, te gee, te verruil of andersins daarvoor te beskik.

(6) Ondanks die bepalings van hierdie Hoofstuk, kan die Minister ondergrondse water wat deur die Regering uitgehaal of verkry is, aan enige persoon vir gebruik op enige grond vir 'n deur die Minister gemagtigde doel vervoer en voorsien, hetsy bedoelde water uitgehaal of verkry is op grond wat aan die Unie-regering behoort of op ander grond: Met dien verstande dat geen water aldus uitgehaal of verkry, aldus deur die Minister vervoer of voorsien mag word nie indien dit gevind is op grond wat nie aan die Regering behoort nie, tensy die Regering 'n reg op sodanige water verkry het by wyse van ooreenkoms met die eienaar van daardie grond of uit hoofde van 'n onteiening ooreenkomstig artikel *sestig*.

Registrasie van
private water-
boorkontrakteurs.

31. (1) Enigiemand wat deur middel van waterboormasjiene of ander toestelle wat gebruik word om boorgate te maak, op enige grond boorgate maak ten einde water te kry, moet binne drie maande na die inwerkingtreding van hierdie Wet of, indien hy so 'n masjien of toestel op 'n datum na die inwerkingtreding van hierdie Wet begin gebruik, binne een maand na die datum waarop hy aldus daarvan begin gebruik maak, die direkteur van sy volle naam, sy permanente adres en besonderhede betreffende die tipe en fabrikaat van bedoelde waterboormasjien of toestel in kennis stel.

(2) So iemand moet binne een maand na enige verandering in sy adres, die direkteur skriftelik van sodanige verandering in kennis stel.

(3) Die direkteur moet 'n register laat hou van die inligting ingevolge sub-artikel (1) of (2) aan hom verstrek.

(4) Die bepalings van hierdie artikel is nie ten opsigte van die maak van boorgate deur 'n mynmaatskappy in verband met mynbouwerksaamhede van toepassing nie.

Fasiliteite ter
verkryging van
inligting be-
treffende water
ondergronds
gevind.

32. (1) 'n In sub-artikel (1) van artikel *een-en-dertig* bedoelde persoon wat voornemens is om 'n boorgat te maak ten einde water te soek of uit te haal, moet voordat hy dit begin doen, skriftelik aan die Direkteur van Geologiese Opname kennis gee van sy voorneme om dit te doen, en moet 'n dagboek hou van die vordering van die werk, waarin aangedui word—

or prohibiting the sinking of such boreholes or wells except with the consent of the Minister or a person acting under his authority and subject to such conditions as he may specify.

(3) An owner referred to in sub-section (1) shall not, without a permit issued by the Minister under sub-section (5), sell, give or otherwise dispose of subterranean water abstracted or obtained by him in accordance with sub-section (1) to any person for use on any other land or convey such water after it has been so abstracted or obtained beyond the boundaries of his land for his own use.

(4) (a) The owner of any mine on which mining operations are being lawfully carried on may remove from the mining area any subterranean water whereof the removal is necessary for the efficient carrying on of such mining operations or the safety of persons employed therein, and may, unless the Minister otherwise directs, use such water in such mining operations or for domestic purposes connected therewith, and may, under permit from the Minister, use such water for other purposes or sell, give, exchange or otherwise dispose of such water.

(b) Any such owner who does not so use, sell, give or exchange any such water, shall dispose thereof in such manner as the Minister may direct.

(5) The Minister may, subject to such conditions as he may deem fit—

(a) on the application of an owner referred to in sub-section (1), issue a permit to such owner entitling him to convey, for his own use, subterranean water abstracted or obtained by him in terms of that sub-section beyond the boundaries of the land on which it was abstracted or obtained, or to sell, give or otherwise dispose of such water to some other person for use on other land; or

(b) on the application of the owner of a mine referred to in sub-section (4), issue a permit to such owner entitling him to use, sell, give, exchange or otherwise dispose of subterranean water removed from such mine in terms of that sub-section.

(6) Notwithstanding the provisions of this Chapter, the Minister may convey and supply any subterranean water abstracted or obtained by the Government to any person for use on any land for any purpose authorized by the Minister, whether such water has been abstracted or obtained on land belonging to the Government of the Union or on other land: Provided that no water so abstracted or obtained shall be so conveyed or supplied by the Minister if it has been found on land not belonging to the Government unless the Government has acquired a right to such water by agreement with the owner of the said land or by virtue of any expropriation in accordance with section *sixty*.

31. (1) Any person who sinks, for the purpose of locating water, boreholes on land by means of a water-boring machine or other apparatus operated for the sinking of boreholes shall, within three months after the commencement of this Act, or, if he commences to operate any such machine or apparatus on any date after the commencement of this Act, within one month after the date upon which he so commences to operate, furnish the director with his full name, his permanent address and details as to the type and make of the said water-boring machine or apparatus.

Registration of private water boring contractors.

(2) Such person shall, within one month of any change in his address, in writing notify the director of such change.

(3) The director shall cause a register to be kept of the information furnished to him under sub-section (1) or (2).

(4) The provisions of this section shall not apply in respect of the sinking of boreholes by a mining company in connection with mining operations.

32. (1) A person referred to in sub-section (1) of section *thirty-one* who proposes to sink a borehole for the purpose of searching for or abstracting water, shall, before he commences to do so, give to the Director of Geological Survey notice in writing of his intention to do so, and shall keep a journal of the progress of the work, which shall indicate—

Facilities for obtaining information as to water found underground.

- (a) die deursnee en uiteindelijke diepte van die boorgat;
 - (b) afmetings van die strata waardeur geboor is en 'n beskrywing van sodanige strata;
 - (c) die dieptes waarop water gevind word en waarop dit uiteindelik gaan staan;
 - (d) besonderhede van enige toets gedoen en van die hoeveelheid en oënskynlike gehalte van die water wat gevind is;
 - (e) die vloei-tempo gedurende die toets, en die duur van die toets;
 - (f) waar doenlik, die watervlakke gedurende die toets en daarna totdat die water tot sy natuurlike vlak teruggekeer het.
- (2) Waar so 'n boorgat in verband met 'n bestaande pompstasie of watervoorraad gemaak word, moet die besonderhede van enige toets wat ingevolge paragraaf (d) van sub-artikel (1) aangeteken moet word ook die pomp-tempo van die bestaande werke gedurende sodanige toets insluit.

(3) Bedoelde persoon moet enigiemand wat deur die Direkteur van Geologiese Opname daartoe gemagtig is, toelaat om op alle redelike tye—

- (a) vrye toegang tot so 'n boorgat te hê;
- (b) die boorgat en die materiaal daaruit gehaal of verwyder, te inspekteer;
- (c) monsters van bedoelde materiaal en van water uit die boorgat gehaal, te neem;
- (d) met behulp van geofisiese instrumente aflesings in of in die omgewing van bedoelde boorgat te doen; en
- (e) die dagboek wat volgens sub-artikel (1) gehou moet word, te inspekteer en afskrifte daarvan of uittreksels daaruit te maak.

(4) Wanneer so 'n boorgat klaar is of laat vaar word, moet bedoelde persoon 'n volledige afskrif van genoemde dagboek wat op daardie boorgat betrekking het aan die Direkteur van Geologiese Opname stuur.

(5) Indien die persoon wat 'n boorgat op grond maak, nie die eienaar of okkupeerder van die grond is nie, rus die verpligting om 'n deur die Direkteur van Geologiese Opname gemagtigde persoon toe te laat om die regte in paragrafe (a) tot (d) van sub-artikel (3) uiteengesit, uit te oefen, op sowel die eienaar of okkupeerder as die persoon wat die boorgat maak.

(6) Waar iemand 'n kontrak aangaan of voornemens is om 'n boorgat te maak op grond wat behoort aan of geokkupeer word deur 'n ander persoon, word die kontrakteur by die toepassing van hierdie artikel en van artikel *een-en-dertig* geag die persoon te wees wat die boorgat maak.

(7) Die eienaar of okkupeerder van grond waarop 'n in hierdie artikel bedoelde boorgat gemaak word, kan by skriftelike kennisgewing aan die Direkteur van Geologiese Opname versoek dat enige afskrif van of uittreksel uit die dagboek in sub-artikel (1) bedoel, of enige monster ingevolge paragraaf (c) van sub-artikel (3) geneem, as vertroulik behandel moet word, en bedoelde Direkteur mag daarna nie toelaat dat daardie afskrif, uittreksel of monster, behalwe vir sover dit inligting omtrent waterbronne of -voorrade bevat of verskaf, gepubliseer of aan iemand anders as 'n amptenaar van die departement of van die Afdeling Geologiese Opname getoon word nie, tensy die eienaar of okkupeerder wat die kennis gegee het, daartoe instem.

Misdrywe.

33. Iemand wat 'n op hom toepaslike bepaling van artikel *een-en-dertig* of *twee-en-dertig* oortree of versuim om daaraan te voldoen, is aan 'n misdryf skuldig.

HOOFSTUK IV.

WATERHOWE.

Instelling van waterhowe.

34. (1) Hierby word ingestel—

- (a) 'n waterhof wat die Transvaalse Waterhof heet, met regsbevoegdheid in die provinsie Transvaal;
- (b) 'n waterhof wat die Oranje-Vrystaatse Waterhof heet, met regsbevoegdheid in die provinsie Oranje-Vrystaat;
- (c) 'n waterhof wat die Natalse Waterhof heet, met regsbevoegdheid in die provinsie Natal;
- (d) 'n waterhof wat die Kaapse Waterhof heet, met regsbevoegdheid in daardie gedeelte van die provinsie Kaap die Goeie Hoop wat nie by die in paragraaf (e) of (f) bedoelde gebied inbegrepe is nie, en, vir die doeleindes van die toepassing van die bepalings van artikels *honderd-en-ses* en *honderd vier-en-sewentig*, en tot tyd en wyl die in paragraaf (g) bedoelde waterhof ingestel word, ook in die gebied Suidwes-Afrika;

- (a) the diameter and the final depth of the borehole;
- (b) measurements of the strata passed through and a description of such strata;
- (c) the levels at which water is struck and subsequently rests;
- (d) particulars of any test made and of the quantity and apparent quality of water obtained;
- (e) the rate of flow throughout the test and the duration of the test;
- (f) where practicable, the water levels during the test and thereafter until the water has returned to its natural level.

(2) Where any such borehole is sunk in connection with an existing pumping station or water supply, the particulars of any test required to be kept under paragraph (d) of sub-section (1) shall also include the rate of pumping at the existing works during such test.

(3) The said person shall allow any person authorized by the Director of Geological Survey for the purpose at all reasonable times—

- (a) to have free access to any such borehole;
- (b) to inspect the borehole and the material excavated or taken therefrom;
- (c) to take specimens of such material and of water abstracted from the borehole;
- (d) to take readings in or in the vicinity of any such borehole with geophysical instruments; and
- (e) to inspect and take copies of or extracts from the journal required to be kept under sub-section (1).

(4) On completion or abandonment of any such borehole, the said person shall send a complete copy of the said journal having reference to the said borehole to the Director of Geological Survey.

(5) Where the person sinking a borehole on any land is not the owner or occupier of the land, the obligation to allow a person authorized by the Director of Geological Survey to exercise the rights specified in paragraphs (a) to (d) of sub-section (3) shall be the obligation of the owner or occupier as well as of the person sinking the borehole.

(6) Where any person contracts or proposes to sink any borehole on land belonging to or occupied by any other person, the contractor shall be deemed for the purpose of this section and of section *thirty-one* to be the person sinking the borehole.

(7) The owner or occupier of land on which a borehole referred to in this section is sunk, may give notice in writing to the Director of Geological Survey requiring him to treat as confidential any copy of or extract from the journal referred to in sub-section (1) or any specimen taken under paragraph (c) of sub-section (3), and the said Director shall thereupon not allow that copy, extract or specimen, except in so far as it contains or affords information as to water resources or supplies, to be published or shown to any person not being an officer of the department or of the Division of Geological Survey, unless the owner or occupier giving the notice consents thereto.

33. Any person who contravenes or fails to comply with any provision of section *thirty-one* or *thirty-two* which is applicable to him, shall be guilty of an offence.

CHAPTER IV.

WATER COURTS.

34. (1) There is hereby established—

- (a) a water court to be known as the Transvaal Water Court, which shall have jurisdiction in the province of the Transvaal;
- (b) a water court to be known as the Orange Free State Water Court, which shall have jurisdiction in the province of the Orange Free State;
- (c) a water court to be known as the Natal Water Court, which shall have jurisdiction in the province of Natal;
- (d) a water court to be known as the Cape Water Court, which shall have jurisdiction in that portion of the province of the Cape of Good Hope not included in the area referred to in paragraph (e) or (f) and, for the purposes of the application of the provisions of sections *one hundred and six* and *one hundred and seventy-four*, and until the water court referred to in paragraph (g) is established, also in the territory of South-West Africa;

Establishment of water courts.

- (e) 'n waterhof wat die Waterhof van die Oostelike Distrikte heet, met regsbevoegdheid in daardie gedeelte van die provinsie Kaap die Goeie Hoop waarin die Plaaslike Afdeling Oostelike Distrikte van die Hooggeregshof van Suid-Afrika regsbevoegdheid uitoefen;
- (f) 'n waterhof wat die Waterhof van Griekwaland-Wes heet, met regsbevoegdheid in daardie gedeelte van bedoelde provinsie waarin die Plaaslike Afdeling Griekwaland-Wes van genoemde Hooggeregshof regsbevoegdheid uitoefen; en
- (g) vanaf 'n datum waarop die bepalinge van hierdie Wet kragtens artikel *honderd-en-tagtig* op die gebied Suidwes-Afrika van toepassing gemaak word, 'n waterhof wat die Waterhof van Suidwes-Afrika heet, met regsbevoegdheid in daardie gebied.

(2) Enige aangeleentheid wat ontstaan uit of in verband met die gebruik of toeëiening van die water van 'n openbare stroom, wat die grens of 'n gedeelte van die grens tussen die gebiede van twee of meer waterhowe uitmaak, word verhoor en beslis deur die een of ander van daardie waterhowe soos deur die partye ooreengekom, of, by ontstentenis van ooreenkoms, deur die Minister bepaal, en die beslissing van so 'n waterhof vir sover dit in verband staan met die gebruik of toeëiening van die water van 'n openbare stroom binne die gebied van enige ander van daardie waterhowe, is van krag asof dit 'n beslissing van bedoelde ander waterhof is.

Samestelling van waterhof.

35. Op 'n waterhof sit 'n waterhofregter voor wat 'n regter is van die afdeling van die Hooggeregshof van Suid-Afrika wat regsbevoegdheid in die gebied van daardie waterhof uitoefen, of, in die geval van die Waterhof van Suidwes-Afrika, 'n regter van die Hoëhof van Suidwes-Afrika, en so 'n hof bestaan uit bedoelde waterhofregter wat alleen of, indien hy dit gelas, met assessors aangestel soos hieronder bepaal, sit.

Aanstelling van assessors.

36. (1) Die assessors, as daar is, benodig vir die verhoor en beslegting van enige saak wat vir beslissing deur 'n waterhof voorkom, word deur die voorsittende regter aangestel, en moet—

- (a) in 'n saak betreffende die bedrag van vergoeding wat volgens artikel *sestig*, *vier-en-negentig* of *honderd-en-twaalf* betaal moet word, twee leke-assessors wees wat uit die volgens artikel *sewe-en-dertig* opgestelde lys gekies word en wat kennis het van die waarde van grond in die gebied waar die onteigende eiendom geleë is en 'n ingenieur wat indien die Regering 'n party is, nie iemand in diens van die Regering moet wees nie;
- (b) in enige ander saak waarby die Regering 'n party is, 'n ingenieur wat nie in diens van die Regering is nie en 'n leke-assessor gekies uit die lys volgens artikel *sewe-en-dertig* opgestel, wees; en
- (c) in enige ander geval 'n deur die Minister genomineerde ingenieur van die departement en 'n aldus gekose leke-assessor wees.

(2) Die naam van elke assessor ooreenkomstig sub-artikel (1) gekies, moet aan elke party by die saak wat ondersoek of beslis moet word, bekend gemaak word, en bedoelde party kan ooreenkomstig regulasies beswaar teen so 'n assessor aanteken by die voorsittende regter wat oor die beswaar beslis en, indien hy 'n beswaar handhaaf, onverwyld 'n ander assessor moet aanstel.

(3) Geen assessor is bevoeg om by 'n verhoor voor 'n waterhof te dien as hy regstreekse of onregstreekse persoonlike belang by die saak wat verhoor en besleg moet word, het nie, of binne die derde graad van bloed- of aanverwantskap aan 'n party by die saak verwant is nie, en elke assessor moet voordat hy sitting neem, onder eed deur die voorsittende regter opgelê, verklaar dat hy nie so 'n belang het nie en nie aldus verwant is nie, en dat hy oor die saak wat verhoor staan te word na sy beste vermoë ooreenkomstig die voorgelegde getuienis uitspraak sal gee.

Opstel van assessorlyste.

37. (1) (a) Die Minister moet by kennisgewing in die *Staatskoerant* elke waterhofgebied verdeel in wyke soos hy nodig ag en moet ten opsigte van elke sodanige wyk minstens vyf en hoogstens twaalf persone as leke-assessors vir die waterhof nomineer en vir elke sodanige wyk 'n lys opstel met die volle voorname en van, die verblyfplek en die titel, beroep of bedryf van iedere persoon aldus genomineer.
- (b) Die Minister moet voorts ten opsigte van elke waterhofgebied hoogstens vyftien ingenieurs nomineer uit wie se midde enige ingenieur-assessor benodig in 'n saak waarby die Regering 'n party is, gekies

- (e) a water court to be known as the Eastern Districts Water Court which shall have jurisdiction in that portion of the province of the Cape of Good Hope in which the Eastern Districts Local Division of the Supreme Court of South Africa exercises jurisdiction;
- (f) a water court to be known as the Griqualand West Water Court, which shall have jurisdiction in that portion of the said province in which the Griqualand West Local Division of the said Supreme Court exercises jurisdiction; and
- (g) with effect from the date on which the provisions of this Act are applied to the territory of South-West Africa in terms of section *one hundred and eighty*, a water court to be known as the South-West Africa Water Court, which shall have jurisdiction in that territory.

(2) Any matter arising out of or in connection with the use or appropriation of the water of a public stream which forms a boundary or any part of a boundary between the areas of two or more water courts, shall be heard and determined by one or other of those water courts agreed upon between the parties or, failing agreement, determined by the Minister, and the decision of any such water court shall, in so far as it relates to the use or appropriation of the water of a public stream within the area of any other of those water courts, have effect as if it were a decision of that other water court.

35. A water court shall be presided over by a water court judge who shall be a judge of the division of the Supreme Court of South Africa which exercises jurisdiction in the area of that water court, or, in the case of the South-West Africa Water Court, by a judge of the High Court of South-West Africa, and shall consist of such water court judge sitting alone or, if he so directs, with assessors, appointed as hereinafter provided.

36. (1) The assessors, if any, required for the hearing and determination of any matter arising for decision by a water court shall be appointed by the presiding judge, and shall—

- (a) in any matter relating to the amount of compensation payable under section *sixty, ninety-four or one hundred and twelve* be two lay assessors, selected from the panel prepared under section *thirty-seven* and having knowledge of the value of land in the area where the expropriated property is situated, and an engineer who shall not, if the Government is a party, be a person in the employ of the Government;
- (b) in any other matter to which the Government is a party, be an engineer who is not in the employment of the Government and a lay assessor selected from the panel prepared under section *thirty-seven*; and
- (c) in any other case be an engineer of the department nominated by the Minister and a lay assessor so selected.

(2) The name of any assessor selected in accordance with sub-section (1) shall be notified to each of the parties to the matter to be investigated or determined and any such party may in accordance with regulation lodge an objection to such assessor with the presiding judge who shall decide on the objection and shall, if he upholds an objection, forthwith appoint another assessor.

(3) No assessor shall be qualified to serve at a hearing before a water court if he has any direct or indirect personal interest in the matter to be heard and determined, or is related within the third degree of consanguinity or affinity to any party to the suit, and every assessor shall before taking his seat declare upon oath administered by the presiding judge that he has no such interest and is not so related and that he will to the best of his ability give judgment upon the matter to be heard in accordance with the evidence submitted.

37. (1) (a) The Minister shall by notice in the *Gazette* divide each water court area into wards as he may consider necessary and shall in respect of each of such wards nominate not less than five and not more than twelve persons as water court lay assessors, and shall in respect of each such ward prepare a panel containing the full christian names and surname, the place of abode and the title, calling or business of every person so nominated.

(b) The Minister shall further in respect of each water court area nominate not more than fifteen engineers from amongst whom any engineer assessor required in any case to which the Government is a party shall be

Constitution of water court.

Appointment of assessors.

Preparation of panels of assessors.

moet word, en 'n lys opstel wat die volle voorname en van, woonplek en titel van elke aldus genomineerde persoon aantoon.

(2) Niemand is bevoeg om as leke-assessor vir 'n waterhof te dien nie en sy naam word ook nie in so 'n lys van leke-assessors opgeneem nie, tensy hy minstens dertig jaar oud is en vasgoed ter waarde van minstens tweeduisend pond besit, en niemand mag as leke-assessor op 'n waterhof sit nie, tensy hy grond in die wyk waarin die saak voor daardie hof ontstaan het, besit, okkupeer en bewerk, of besit, geokkupeer en bewerk het.

(3) Die Minister kan na goeëddunke te eniger tyd die naam van enige persoon van 'n ingevolge sub-artikel (1) deur hom opgestelde lys verwyder, of die naam van enige persoon in daardie lys insluit, en indien iemand wie se naam op daardie lys voorkom, ophou om volgens sub-artikel (2) bevoeg te wees of insolvent raak of kranksinnig word, moet sy naam onverwyld van bedoelde lys verwyder word.

Regte van assessors in verband met beslissing van waterhof.

38. (1) Indien 'n waterhof met assessors saamgestel is, het elke assessor 'n gelyke stem met die waterhofregter ten opsigte van enige beslissing van daardie hof oor feitevrae, en die besluit van die meerderheid van die lede van die hof oor so 'n feitevraag maak 'n beslissing van die hof uit.

(2) Enige regspraak wat uit die aanvaarde feite vir bedoelde hof se beslissing ontstaan, en die vraag of 'n bepaalde aangeleentheid waaroor beslis moet word 'n feitevraag dan wel 'n regspraak is, en enige vraag in verband met koste, word deur die waterhofregter beslis, en geen assessor het by so 'n beslissing seggenskap nie.

Dood van assessor of onvermoë om sitting te neem.

39. (1) Indien nadat 'n waterhof saamgestel is, 'n assessor daartoe genomineer of gekies—

- (a) gedurende die verhoor van 'n aansoek deur daardie hof of so kort voor so 'n verhoor dat die vakature nie betyds vir die verhoor gevul kan word nie, te sterwe kom of insolvent raak of kranksinnig word; of
- (b) nie in staat is om sitting te neem nie, en 'n ander assessor nie betyds vir die verhoor genomineer of gekies kan word nie; of
- (c) nadat hy sitting geneem het, nie in staat is om daarmee voort te gaan nie,

kan die partye by die aansoek ooreenkom dat die aansoek deur die oorblywende lid of lede van die hof verhoor en beslis word: Met dien verstande dat by meningsverskil waar die hof uit die waterhofregter en een assessor bestaan, die uitspraak van die regter die uitspraak van die hof is.

(2) Enige bevel uitgevaardig of toekenning of uitspraak gedoen onder die omstandighede in sub-artikel (1) beskryf, word vir alle doeleindes geag 'n bevel, toekenning of uitspraak van 'n waterhof te wees.

(3) Wanneer onder die omstandighede in sub-artikel (1) beskryf, die partye by 'n aansoek nie tot die verhoor van en beslissing oor die aansoek deur die oorblywende lede van die waterhof ooreenkom nie, stel die waterhofregter die verhoor uit vir die nominasie of verkiesing, na gelang van die geval, van 'n assessor in die plek van die assessor wat te sterwe gekom, insolvent geraak of kranksinnig geword het, of onbekwaam geword het om sitting te neem of daarmee voort te gaan.

Jurisdiksie, bevoegdheid en gesag van waterhof.

40. 'n Waterhof is bevoeg—

- (a) om bevel uit te vaardig en toekennings te doen, met inbegrip, waar nodig, van bevel vir die betaling van geld, op—
 - (i) aansoeke in verband met geskille rakende die gebruik, uitkeer of aanwending van openbare water;
 - (ii) aansoeke ingevolge die voorbehoudsbepaling by artikel vyf betreffende die reg op 'n redelike aandeel in water in daardie voorbehoudsbepaling bedoel;
 - (iii) aansoeke in verband met eise van serwitute deur middel waarvan regte op die gebruik van of beskikking oor openbare water of ondergrondse water uitgeoefen word of kan word;
 - (iv) aansoeke betreffende enige aangeleentheid wat volgens hierdie Wet of ander wetsbepalings aan 'n waterhof voorgelê kan word;
- (b) om op aansoek van enige belanghebbende persoon, die regte op die gebruik van openbare water van een of ander bepaalde stroom te ondersoek, te omskryf en aan te teken, en behoudens die bepalinge van artikel twee-

selected, and prepare a panel showing the full christian names and surname, place of residence and title of every person so nominated.

(2) No person shall be qualified to serve as a water court lay assessor nor shall his name be inserted in any such panel of lay assessors unless he is not less than thirty years of age and owns immovable property of the value of not less than two thousand pounds, and no person shall sit as a lay assessor on any water court unless he owns, occupies and cultivates or has owned, occupied and cultivated land within the ward in which the matter before that court has arisen.

(3) The Minister may at any time in his discretion remove the name of any person from a panel prepared by him under sub-section (1), or include the name of any person in such panel, and if any person whose name is on the said panel ceases to be qualified in terms of sub-section (2) or becomes insolvent or of unsound mind, his name shall forthwith be removed from the said panel.

38. (1) If a water court is constituted with assessors each assessor shall have an equal voice with the water court judge in any decision of such court on any matter of fact, and on all such matters of fact the decision of the majority of the members of the court shall be the decision of the court.

Rights of assessors in decision of water court.

(2) Any matter of law arising out of the accepted facts for decision by such court, and any question as to whether a matter for decision is a matter of fact or of law, and any question as to costs, shall be decided by the water court judge and no assessor shall have a voice in such decision.

39. (1) If after a water court has been constituted, an assessor nominated or selected thereto—

Death of assessor or inability to sit.

- (a) dies or becomes insolvent or of unsound mind during the hearing of an application by such court or so soon before such a hearing that the vacancy cannot be filled in time for the hearing; or
- (b) is unable to take his seat and another assessor cannot be nominated or selected in time for the hearing; or
- (c) having taken his seat is unable to continue to sit,

the parties to the application may agree to its being heard and decided by the remaining member or members of the court: Provided that in the case of a difference of opinion where the court consists of the water court judge and one assessor, the judgment of the judge shall be the judgment of the court.

(2) Any order or award made or judgment given in the circumstances described in sub-section (1) shall be deemed for all purposes to be an order, award or judgment of a water court.

(3) Whenever in the circumstances described in sub-section (1), the parties to an application do not agree to the hearing and decision of that application by the remaining members of the water court, the hearing shall be adjourned by the water court judge for the nomination or selection, as the case may be, of an assessor in the place of the assessor who has died, become insolvent or of unsound mind or become unable to take his seat or continue to sit.

40. A water court shall have power—

- (a) to make orders and awards, including orders for the payment of money, where necessary, upon—
 - (i) applications in connection with disputes regarding the use, diversion or appropriation of public water;
 - (ii) applications under the proviso to section five as to the right to a reasonable share of water referred to in that proviso;
 - (iii) applications in connection with claims for servitudes by means of which rights to use or dispose of public water or subterranean water are or may be exercised;
 - (iv) applications as to any matter which in terms of this Act or any other law may be brought before a water court;
- (b) on the application of any interested person, to investigate, define and record the rights to the use of public water of any particular stream and, subject to the provisions of section forty-two, and to the due recognition

Jurisdiction, powers and authority of water court.

en-veertig, en met behoorlike inagneming van alle omskrewe regte op bedoelde openbare water, en enige verdeling wat by bevel van 'n bevoegde hof of by arbitrasie of ooreenkoms of op ander wettige wyse plaasgevind het, bedoelde openbare water vir enige deur hierdie Wet erkende doel te verdeel;

- (c) om bestaande, toekomsstige of voorwaardelike regte of verpligtings ten opsigte van die gebruik van openbare water, of enige serwituutreg deur middel waarvan openbare water of ondergrondse water gebruik of daaroor beskik word, te ondersoek en na goeddunke daaroor te beslis, al kan niemand uit hoofde van so 'n beslissing enige verligting eis nie;
- (d) om te ondersoek, te beslis en aan te teken of 'n besondere stroom 'n openbare dan wel 'n private stroom is;
- (e) om die normale stroming van 'n openbare stroom by enige plek langs die loop van daardie stroom te ondersoek en dit te omskryf en aan te teken;
- (f) om die plek of plekke te bepaal en vas te stel, hetsy op grond wat oewergrond aan 'n openbare stroom is of op grond wat hoër op langs die loop van daardie openbare stroom geleë is, waar 'n eienaar van sodanige grond geregtig is om water uit daardie stroom uit te keer, en om, indien nodig, met behoorlike inagneming van die regte van ander eienaars, die aard en omvang van die gebruiksreg op sodanige plek of plekke te bepaal;
- (g) om ondersoek te doen na enige aansoek om die verwydering of verandering van enige dam, studam of ander obstruksie in die loop van 'n openbare stroom en in verband daarmee bevels uit te vaardig en toekennings te doen;
- (h) om toestemming tot die gebruik van openbare water te verleen;
- (i) om die opdragte betreffende die oprigting, instandhouding, beheer van en toesig oor toestelle vir die behoorlike meet en verdeling van die normale stroming van enige openbare stroom en die betaling van die koste daarvan te gee wat nodig mag wees ten einde aan sy bevels of toekennings gevolg te gee; en
- (j) om in die algemeen enige handeling te verrig of enigiets te doen wat volgens hierdie Wet of ander wetsbepalings deur 'n waterhof verrig of gedoen kan word.

Bevoegdhede
van sekere
regters betreffende
waterhofsake.

41. (1) 'n Regter van 'n afdeling van die Hooggeregshof van Suid-Afrika wat binne die gebied van 'n waterhof regsbevoegdheid uitoefen, of in die geval van die gebied Suidwes-Afrika, van die Hoëhof van Suidwes-Afrika, is bevoeg—

- (a) om te eniger tyd na die indiening van 'n aansoek om die verhoor van 'n saak deur daardie waterhof—
 - (i) vervangende bestelling van enige prosesstuk, met inbegrip van 'n aansoek, aan 'n besondere persoon of klas persone te gelas;
 - (ii) ander opdragte rakende die bestelling van die aansoek te gee;
 - (iii) oor enige beswaar teen 'n assessor te beslis;
 - (iv) die verhoor of verdere verhoor van die aansoek te verdaag;
 - (v) verlof te verleen vir die afneem van getuienis op kommissie of deur beëdigde verklaring;
 - (vi) verlof aan 'n applikant te verleen om sy aansoek terug te trek op die voorwaardes betreffende kennisgewing aan 'n ander party by die aansoek wat aan bedoelde regter nodig blyk;
 - (vii) aan enigiemand verlof te verleen om as party by 'n geding toe te tree;
 - (viii) aan 'n applikant verlof te verleen om verdere persone as respondente by 'n geding te voeg;
 - (ix) 'n bevel uit te reik waarby 'n applikant, 'n respondent of enige party wat regstreeks belang by die aansoek het, toegelaat word om op die grond van 'n respondent of 'n applikant opnames of afmetings te doen; en
 - (x) enige spesiale aanvullende bevel uit te vaardig betreffende koste, gelde of uitgawes in sub-artikel (3) van artikel *sewe-en-veertig* bedoel;
- (b) om te eniger tyd, hetsy voor of na die indiening van 'n aansoek om die verhoor van 'n saak deur bedoelde waterhof—
 - (i) te beslis of 'n aanhangige geskil deur daardie waterhof dan wel deur 'n ander hof besleg moet word;

of all rights to the public water in question which have been defined and any apportionment which has been made by order of a competent court or by arbitration or agreement or in any other lawful manner, to apportion such public water for any of the purposes recognised by this Act;

- (c) to enquire into and, in its discretion, determine any existing, future or contingent right or obligation in respect of the use of public water or any right of servitude by means of which public water or subterranean water is being used or disposed of, notwithstanding that no person can claim any relief consequential upon such determination;
- (d) to investigate, determine and record whether any particular stream is a public or a private stream;
- (e) to investigate, define and record the normal flow of a public stream at any point along the course of such stream;
- (f) to determine and fix the place or places, either upon land riparian to a public stream or upon any land higher up the course of such public stream, at which an owner of such land shall be entitled to divert water from such stream, and to determine, if required, the nature and extent of the right of use at such place or places, due regard being had to the rights of any other owners;
- (g) to investigate any application for the removal or alteration of any dam, weir or other obstruction in the course of a public stream and to make orders and awards thereon;
- (h) to grant permission for the use of public water;
- (i) to give such directions for the erection, maintenance, control and supervision of devices for the proper measurement and division of the normal flow of any public stream and as to payment of the costs thereof as may be necessary to give effect to its orders or awards; and
- (j) generally to do any act or thing which may under this Act or any other law be done by a water court.

41. (1) Any judge of any division of the Supreme Court of South Africa which exercises jurisdiction within the area of a water court, or, in the case of the territory of South-West Africa, of the High Court of South-West Africa, shall have power—

Powers of certain judges as to water court matters.

- (a) at any time after the lodging of an application for the hearing of a matter by that water court—
 - (i) to order substituted service of any process, including any application, on any particular person or class of persons;
 - (ii) to give any other directions as to the service of the application;
 - (iii) to decide any objection to an assessor;
 - (iv) to adjourn the hearing or the further hearing of the application;
 - (v) to grant leave to take evidence on commission or on affidavit;
 - (vi) to grant leave to an applicant to withdraw his application upon such terms as to notice to any other party to the application as to such judge may seem necessary;
 - (vii) to grant leave to any person to intervene as a party to a suit;
 - (viii) to grant leave to an applicant to join further persons as respondents in a suit;
 - (ix) to grant any order permitting an applicant, a respondent or any party directly interested in the application to make surveys or take gaugings upon the land of a respondent or an applicant; and
 - (x) to make any special supplementary order as to any costs, fees or expenses referred to in subsection (3) of section *forty-seven*;
- (b) at any time, whether prior to or after the lodging of an application for the hearing of a matter by that water court—
 - (i) to decide whether a pending dispute is one cognisable by that water court or by some other court;

- (ii) 'n interdik toe te staan in afwagting van die beslissing van 'n saak deur bedoelde waterhof; en
- (iii) enige interlokutore bevel uit te vaardig wat hy goedvind, en die algemeenheid van hierdie bepaling word nie beperk deur enigiets in voorgaande paragrawe vervat nie.

(2) Enige regter van die Hooggeregshof het voor die indiening van 'n aansoek om die verhoor van 'n saak deur 'n waterhof konkurrente jurisdiksie binne sy regsgebied om 'n interdik toe te staan in afwagting van die beslissing van enige saak deur 'n waterhof.

(3) 'n Regter in sub-artikel (1) of (2) bedoel, is bevoeg om in verband met 'n bevel of opdrag deur hom gegee, die bevel rakende koste uit te vaardig wat bedoelde regter billik ag.

(4) 'n Regter in sub-artikel (1) bedoel, is bevoeg om op aansoek 'n ooreenkoms aangegaan deur al die partye by 'n geskil rakende waterregte, tot 'n hofbevel te verklaar: Met dien verstande dat—

- (a) so 'n aansoek die volle name van die partye deur die uitvaardiging van die bevel geraak, die besonderhede van die regte wat die onderwerp van die geskil uitmaak, en die gronde van die geskil moet vermeld; en
- (b) die regter daarvan oortuig moet wees dat kennisgewing van die aansoek behoorlik bestel is op elke party wat daardeur geraak word, en dat bedoelde ooreenkoms duidelik en verstaanbaar is en die bepaling daarvan redelik en nie met 'n bepaling van hierdie Wet in stryd is nie.

(5) Verrigtings ingevolge hierdie artikel, uitgesonderd verrigtings ingevolge sub-artikel (2), word geag verrigtings voor 'n waterhof te wees, en 'n bevel deur 'n regter ten opsigte van sodanige verrigtings uitgevaardig, word geag 'n bevel van 'n waterhof te wees, en geen appèl kan by enige hof teen 'n kragtens hierdie artikel uitgevaardigde bevel aangeteken word nie.

Gedinge en bevele in verband met verdelings.

42. (1) Daardie gedeelte van 'n bevel kragtens paragraaf (b) van artikel *veertig* deur 'n waterhof verleen, wat die wyse van verdeling van die ingevolge genoemde bevel toegewese water bepaal, is provisioneel, en word finaal na verstryking van 'n tydperk deur die hof in die bevel vasgestel: Met dien verstande dat indien 'n wysiging van bedoelde gedeelte van so 'n bevel voor die verstryking van genoemde tydperk aangevra en deur die hof toegestaan is, die hof daardie bevel finaal kan toestaan.

(2) Ten opsigte van 'n aansoek by 'n waterhof om die verhoor van 'n verdelingsgeding en die verdeling van water daarvolgens, is dit nie noodsaaklik dat die applikant—

- (a) in 'n registrasiekantoor van aktes die eenaars van grond ten opsigte waarvan 'n verdeling van openbare water van 'n bepaalde stroom aangevra word, laat opspoor nie; of
- (b) opmetings omtrent die vloei van daardie stroom doen nie,

indien die waterhof deur ander getuienis oortuig is dat voldoende bewys aan hom voorgelê is om oor bedoelde aansoek uitspraak te kan gee.

Oorspronklike jurisdiksie van waterhof betreffende geskille oor water.

43. Behalwe soos in hierdie Wet bepaal of met skriftelike toestemming van al die betrokke partye, is geen ander hof as 'n waterhof in eerste instansie regsbevoeg om 'n geskil of eis wat uit of in verband met 'n aangeleentheid in artikel *veertig* bedoel, ontstaan, te verhoor en daaroor te beslis nie, en word geen prosesstuk deur 'n ander hof uitgereik nie.

Verskyning van besproeiingsraad of plaaslike bestuur voor waterhof in sekere omstandighede.

44. (1) Indien 'n party by 'n saak wat aan 'n waterhof voorgelê word, die eenaar is van grond opgeneem in die lys van 'n besproeiingsraad opgestel of hersien ooreenkomstig artikel *agt-en-tagtig*, is die betrokke besproeiingsraad, hetsy die raad 'n party by die geskil is al dan nie, geregtig om voor die waterhof te verskyn en met toestemming van daardie hof getuienis wat die raad nodig ag, voor te lê.

(2) 'n Plaaslike bestuur wat water binne sy regsgebied beheer of verdeel onder persone wat vir die betaling van belastingen of vorderings aan daardie plaaslike bestuur aanspreeklik is, en wat die reg van gebruik van bedoelde water het of dit gebruik, kan in verband met enige geding in 'n waterhof namens bedoelde persone as applikant verskyn of as respondent gedagvaar word: Met dien verstande dat die bepalinge van hierdie sub-artikel nie so uitgelê word dat dit so 'n persoon belet om in so 'n geding te verskyn nie.

- (ii) to grant an interdict pending the decision of a matter by that water court; and
- (iii) to grant any interlocutory order he may deem fit, the generality of this provision not being limited by anything contained in the preceding paragraphs.

(2) Any judge of the Supreme Court shall prior to the lodging of an application for the hearing of a matter by a water court have concurrent jurisdiction within its area of jurisdiction to grant an interdict pending the decision of any matter by a water court.

(3) A judge referred to in sub-section (1) or (2) shall have power to make such orders as to costs as the said judge may deem just in connection with any order or direction made by him.

(4) Any judge referred to in sub-section (1) shall have power upon application to declare any agreement made between all the parties to a dispute affecting water rights to be an order of court: Provided that—

- (a) any such application shall state the full names of the parties affected by the making of such order, the particulars of the rights which are the subject of the dispute and the grounds of the dispute; and
- (b) the judge shall be satisfied that every party affected by the application has been duly served with notice thereof and that the said agreement is clear and comprehensible and that the terms thereof are reasonable and are not in conflict with any provision of this Act.

(5) Any proceedings in terms of this section, except proceedings under sub-section (2), shall be deemed to be proceedings before a water court, and any order made by a judge in respect of such proceedings shall be deemed to be an order of a water court, and no order made under this section shall be subject to appeal to any court.

42. (1) Such part of any order made by a water court under paragraph (b) of section *forty* which determines the manner of distribution of the water apportioned in terms of the said order, shall be provisional and shall become final after the expiration of a period fixed by the said court in such order: Provided that if a variation of the said part of such order has before the expiration of the said period been sought and granted by the court, the court may make such order final.

Apportionment suits and orders.

(2) In respect of any application to a water court for the hearing of an apportionment suit and the distribution of water in terms thereof, it shall not be essential for the applicant to—

- (a) have searches made in a deeds registry of owners of land in respect of which an apportionment of public water of any particular stream is sought; or
- (b) take gaugings of the flow of such stream,

if the water court is satisfied by other evidence that sufficient proof has been submitted to it to enable it to adjudicate upon such application.

43. Except as provided in this Act or with the written consent of all the parties concerned, no court other than a water court shall have jurisdiction in the first instance to hear and determine any dispute or claim arising out of or in connection with any matter referred to in section *forty*, and no process shall issue out of any other court.

Original jurisdiction of water court as to water disputes.

44. (1) If a party to any matter brought before a water court is the owner of land which has been included in the schedule of an irrigation board prepared or revised in accordance with section *eighty-eight*, the irrigation board concerned, shall, whether or not the board is a party to the dispute, be entitled to appear before the water court and with the consent of that court to produce such evidence as the board may consider necessary.

Appearance of irrigation board or local authority before water court in certain circumstances.

(2) A local authority which controls or distributes water within its area of jurisdiction to persons who are liable for the payment of rates or charges to such local authority and who have a right to the use of or use such water, shall be entitled to appear as applicant and be liable to be cited as respondent on behalf of such persons in connection with any proceedings in a water court: Provided that nothing in this sub-section contained shall be construed as preventing any such person from appearing in such proceedings.

Verteenwoordiging
by verskyning
voor waterhof.

45. By verrigtings voor 'n waterhof—

- (a) kan 'n party by daardie verrigtings persoonlik verskyn;
- (b) kan 'n plaaslike bestuur, maatskappy of besproeiingsraad, indien hy 'n party by daardie verrigtings is, of, in die geval van 'n plaaslike bestuur of 'n besproeiingsraad, ooreenkomstig artikel *vier-en-veertig* geregtig is om te verskyn, deur middel van die persoon deur daardie plaaslike bestuur, maatskappy of besproeiingsraad benoem, verskyn;
- (c) kan 'n persoon of liggaam wat 'n party by daardie verrigtings is, of andersins volgens hierdie Wet geregtig is om te verskyn, deur middel van 'n advokaat of prokureur verskyn.

Dagvaarding van
getuies en straf
vir nie-bywoning.

46. (1) 'n Party by 'n aansoek voor 'n waterhof of 'n besproeiingsraad of 'n plaaslike bestuur wat ooreenkomstig artikel *vier-en-veertig* geregtig is om te verskyn, kan op die kragtens artikel *vyf-en-vyftig* by regulasie voorgeskrewe wyse die bywoning van enige getuie verkry, ongeag of daardie getuie binne die waterhofgebied waarin genoemde hof jurisdiksie besit, woonagtig is al dan nie.

(2) Indien iemand wat behoorlik gedagvaar is om die verrigtings in 'n waterhof by te woon ten einde getuienis af te lê of 'n boek, aantekening, dokument of saak in sy besit of onder sy beheer oor te lê, sonder redelike oorsaak versuim om ooreenkomstig die dagvaarding te verskyn of getuienis af te lê of daardie boek, aantekening, dokument of saak oor te lê of, tensy hy deur die waterhofregter verskoon is, versuim om dwarsdeur die verrigtings aanwesig te bly, kan die waterhofregter, nadat hy onder eed of deur die relaas van die persoon deur wie die dagvaarding bestel was, oortuig is dat bedoelde persoon behoorlik gedagvaar is en dat sy redelike uitgawes aan hom betaal of aangebied is, aan bedoelde persoon 'n boete van hoogstens vyf-en-twintig pond oplê of, by wanbetaling, gevangenisstraf vir 'n tydperk van hoogstens een maand.

(3) Indien iemand wat aldus gedagvaar is, versuim om te verskyn of, tensy daarvan verskoon, dwarsdeur die verrigtings aanwesig te bly, kan die waterhofregter ook, nadat hy soos voormeld oortuig is, en indien daar aan hom geen wettige verskoning vir die versuim blyk nie, 'n lasbrief uitreik vir die inhegtenisneming van daardie persoon sodat hy voorgebring kan word om getuienis af te lê of enige boek, aantekening, dokument of saak ooreenkomstig die dagvaarding oor te lê, en by versuim om aldus getuienis af te lê of daardie boek, aantekening, dokument of saak oor te lê, om op die by sub-artikel (2) voorgeskrewe wyse mee gehandel te word.

(4) Die waterhofregter kan, waar redes daartoe aangevoer word, die geheel of enige gedeelte van 'n boete of gevangenisstraf wat hy ingevolge hierdie artikel opgelê het, kwytskeld.

(5) Die waterhofregter kan gelas dat die koste van enige verdaging veroorsaak deur die versuim van 'n getuie, of enige gedeelte van daardie koste, uit enige ingevolge hierdie artikel opgelegde boete betaal word.

(6) 'n Straf kragtens sub-artikel (2) of (3) opgelê, word ten uitvoer gelê *mutatis mutandis* asof dit 'n straf was deur 'n magistraatshof opgelê onder omstandighede in die betrokke sub-artikel beskryf, en die bepalinge van enige wet wat van toepassing is ten opsigte van so 'n straf deur 'n magistraatshof opgelê, is *mutatis mutandis* van toepassing ten opsigte van 'n straf ingevolge een of ander van daardie sub-artikels opgelê.

Bevel of toekennings
deur waterhof en
vasstelling van
koste.

47. (1) 'n Waterhof moet by verrigtings wat voor hom plaasvind, die bevel uitvaardig of toekennings doen wat hy billik mag ag, met inbegrip van bevel soos hy goedvind betreffende die koste van sodanige verrigtings ooreenkomstig 'n kosteskaal by regulasie kragtens artikel *vyf-en-vyftig* voorgeskryf: Met dien verstande dat 'n waterhof nie in 'n bevel vir die betaling van koste enige bedrag by wyse van gelde vir verskyning voor bedoelde hof (uitgesonderd getuiegelde) insluit nie, tensy die persoon wat aldus verskyn 'n in paragraaf (c) van artikel *vyf-en-veertig* bedoelde advokaat of prokureur is.

(2) 'n Kostebevel kan die koste insluit van—

- (a) enige noodsaaklike navorsing in 'n registrasiekantoor van aktes gedoen;
- (b) die doen of maak van opmetings en planne;
- (c) die neem van lesings van die vloei van water;
- (d) afskrifte van die getuienis in die geding; of
- (e) noodsaaklike reiskoste van partye of van hul verteenwoordigers,

en enige koste deur 'n waterhof toegeken, word deur die registrator van daardie hof getakseer.

45. In any proceedings before a water court—

Representation in appearance before a water court.

- (a) a party to such proceedings may appear personally;
- (b) a local authority or a company or an irrigation board, if a party to such proceedings, or, in the case of a local authority or an irrigation board, entitled to appear in accordance with section *forty-four*, may appear by the person nominated by such local authority, company or irrigation board;
- (c) a person or body, being a party to such proceedings or otherwise entitled under this Act to appear, may appear by an advocate or attorney.

46. (1) A party to an application before a water court or an irrigation board or a local authority entitled to appear in accordance with section *forty-four*, may procure the attendance of any witness, whether such witness resides within the water court area in which the said court has jurisdiction or not, in the manner prescribed by regulations made under section *fifty-five*.

Summoning of witnesses and penalty for non-attendance.

(2) If any person who has been duly subpoenaed to attend the proceedings in a water court for the purpose of giving evidence or producing any book, record, document or thing in his possession or under his control, fails without reasonable cause to attend or to give evidence or to produce that book, record, document or thing according to the subpoena or, unless excused by the water court judge, to remain in attendance throughout the proceedings, the water court judge may, upon being satisfied upon oath or by return of the person by whom the subpoena was served, that such person has been duly subpoenaed and that his reasonable expenses have been paid or offered to him impose upon the said person a fine not exceeding twenty-five pounds, or in default of payment, imprisonment for a period not exceeding one month.

(3) If any person so subpoenaed fails to appear or, unless duly excused, to remain in attendance throughout the proceedings, the water court judge may also, upon being satisfied as aforesaid and in case no lawful excuse for such failure seems to him to exist, issue a warrant for the apprehension of that person in order that he may be brought up to give evidence or to produce any book, record, document or thing according to the subpoena, and on failure so to give evidence or produce that book, record, document or thing, to be dealt with in the manner prescribed in sub-section (2).

(4) The water court judge may on cause shown remit the whole or any part of any fine or imprisonment which he may have imposed under this section.

(5) The water court judge may order the costs of any adjournment occasioned by the default of a witness, or any portion of those costs, to be paid out of any fine imposed under this section.

(6) A penalty imposed under sub-section (2) or (3) shall be enforced *mutatis mutandis* as if it were a penalty imposed by a magistrate's court in circumstances such as are described in the relevant sub-section, and the provisions of any law which are applicable in respect of such a penalty imposed by a magistrate's court shall *mutatis mutandis* apply in respect of a penalty imposed under either of the said sub-sections.

47. (1) A water court shall make such order or award in any proceedings brought before it as it may deem just, including any order as to costs of any such proceedings as it deems fit in accordance with a scale of costs prescribed by regulations made under section *fifty-five*: Provided that a water court shall not in any order for the payment of costs include any sum as fees for appearance before it (other than witness fees) unless the person so appearing is an advocate or an attorney referred to in paragraph (c) of section *forty-five*.

Order or award of a water court and fixing of costs.

(2) Any order as to costs may include the costs of—

- (a) any necessary search made in a deeds registry;
- (b) making of surveys and plans;
- (c) taking gaugings of the flow of water;
- (d) transcripts of the evidence in the suit; or
- (e) necessary travelling expenses of parties or their representatives,

and any costs awarded by a water court shall be subject to taxation by the registrar of such court.

(3) Advokaatshonoraria, die kwalifiseringskoste van professionele getuies en koste toegeken ten opsigte van 'n aanleentheid in sub-artikel (2) bedoel, word nie by die party en party-koste van verrigtings voor 'n waterhof ingesluit nie, tensy 'n spesiale bevel daartoe deur bedoelde hof of kragtens sub-paragraaf (x) van paragraaf (a) van sub-artikel (1) van artikel een-en-veertig deur 'n regter uitgevaardig is.

Minagting van
'n waterhof.

48. (1) Indien iemand gedurende die sitting van 'n waterhof opsetlik 'n lid van daardie hof, of 'n amptenaar daarvan wat bedoelde sitting bywoon, beledig, of opsetlik 'n beampste van 'n waterhof by die uitvoering van sy pligte hinder of belemmer, of opsetlik die verrigtings van die hof onderbreek of hom andersins aan wangedrag skuldig maak in die plek waar die hofsitting plaasvind, kan die waterhofregter beveel dat so iemand 'n boete van hoogstens vyftig pond betaal, of by wanbetaling gevangenisstraf vir 'n tydperk van hoogstens een maand ondergaan of sodanige gevangenisstraf sonder die keuse van 'n boete ondergaan.

(2) 'n Bevel kragtens sub-artikel (1) uitgevaardig, word ten uitvoer gelê *mutatis mutandis* asof dit 'n bevel was deur 'n magistraatshof uitgevaardig onder omstandighede in daardie sub-artikel beskryf, en die bepalinge van enige wet wat van toepassing is ten opsigte van so 'n bevel deur 'n magistraatshof uitgevaardig, is *mutatis mutandis* van toepassing ten opsigte van 'n bevel kragtens bedoelde sub-artikel uitgevaardig.

(3) Iemand wat opsetlik 'n bevel van 'n waterhof verontagsaam, of versuim om 'n bevel uit te voer wat 'n waterhof hom gelas het om uit te voer, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens tweehonderd-en-vyftig pond of, by wanbetaling, gevangenisstraf vir 'n tydperk van hoogstens ses maande, of met sodanige gevangenisstraf sonder die keuse van 'n boete.

Appel teen
bevele of
toekennings van
'n waterhof.

49. (1) Behalwe soos in sub-artikel (5) van artikel een-en-veertig en in artikel vyftig bepaal, kan enige party by verrigtings voor 'n waterhof waarin daardie hof 'n finale uitspraak gegee het, teen bedoelde uitspraak by die Appèlafdeling van die Hooggeregshof appel aanteken.

(2) So 'n appel word voortgesit asof dit 'n appel teen 'n uitspraak van 'n provinsiale afdeling van die Hooggeregshof of, in die geval van 'n appel teen die uitspraak van die Waterhof van Suidwes-Afrika, van die Hoëhof van Suidwes-Afrika was, en al die bepalinge van toepassing met betrekking tot 'n appel teen so 'n uitspraak is *mutatis mutandis* ten opsigte van 'n appel kragtens hierdie artikel van toepassing.

(3) Die regter wat op die waterhof voorgesit het wat 'n bevel of toekenning waarteen so 'n appel ahangig is, uitgevaardig of verleen het, of, indien daardie regter nie beskikbaar is nie, 'n ander regter verbonde aan dieselfde afdeling van die Hooggeregshof van Suid-Afrika of, in die geval van die Waterhof van Suidwes-Afrika, die Hoëhof van Suidwes-Afrika, is bevoeg om, in afwagting van die beslissing op die appel, die tenuitvoerlegging van bedoelde bevel of toekenning geheel of gedeeltelik op te skort, en wel op die bedinge en voorwaardes wat hy billik ag.

Ooreenkoms om
uitspraak van
waterhof as
finaal te aanvaar,
en skikkings
tydens verrigtings.

50. (1) Die partye by 'n geskil betreffende die gebruik, uitkeer of aanwending van water kan skriftelik ooreenkom om die geskilpunt vir finale beslissing aan 'n waterhof voor te lê, en daarop is enige bevel of toekenning van die waterhof met betrekking tot die geskilpunt vir bedoelde partye bindend en nie aan appel na enige hof onderhewig nie.

(2) Indien die partye by 'n geskil wat die onderwerp van 'n geding voor 'n waterhof is, in die loop van daardie geding tot 'n skikking geraak, kan die waterhof bedoelde skikking 'n bevel van die hof verklaar, mits die waterhof oortuig is dat die skikking duidelik en verstaanbaar is en die bepalinge daarvan redelik en nie met 'n bepaling van hierdie Wet in stryd is nie.

Registrasie van
bevele en
toekennings teen
titelbewyse van
betrokke grond.

51. (1) 'n Bevel of toekenning van 'n waterhof, wat regte op water raak en wat finaal en nie aan appel onderworpe is nie, of ten opsigte waarvan 'n appel nie binne die voorgeskrewe tydperk aangeteken is nie, of ten opsigte waarvan 'n appel aangeteken maar nie voortgesit is nie of van die hand gewys is, of 'n bevel of toekenning deur die Appèlafdeling van die Hooggeregshof op 'n appel ingevolge hierdie Wet uitgevaardig of gedoen, moet, indien die waterhof of bedoelde Appèlafdeling, al na die geval, aldus gelas, by oorlegging van daardie bevel of toekenning deur die registrateur van aktes in bevel van die betrokke registrasiekantoor van aktes, teen die titelbewyse van

(3) Advocates' fees, the qualifying expenses of any professional witness and costs awarded in respect of any matter referred to in sub-section (2), shall not be included in the party and party costs of any proceedings of a water court unless a special order to that effect has been made by such court or by a judge in terms of sub-paragraph (x) of paragraph (a) of sub-section (1) of section *forty-one*.

48. (1) If during the sitting of a water court, any person wilfully insults a member of such court or any officer thereof attending at such sitting, or wilfully obstructs or interferes with an officer of a water court in the execution of his duties, or wilfully interrupts the proceedings of the court or otherwise misbehaves himself in the place where the court is held, the water court judge may order such person to pay a fine not exceeding fifty pounds or in default of payment to be imprisoned for a period not exceeding one month, or to be so imprisoned without the option of a fine. Contempt of a water court.

(2) Any order made under sub-section (1) shall be executed *mutatis mutandis* as if it were an order made by a magistrate's court under circumstances such as are described in that sub-section, and the provisions of any law applicable in respect of such an order made by a magistrate's court shall *mutatis mutandis* apply in respect of an order made under the said sub-section.

(3) Any person who wilfully disobeys an order of a water court or fails to carry out any order which a water court has required him to carry out, shall be guilty of an offence and liable, upon conviction, to a fine not exceeding two hundred and fifty pounds or, in default of payment, imprisonment for a period not exceeding six months, or to such imprisonment without the option of a fine.

49. (1) Save as is provided in sub-section (5) of section *forty-one* and in section *fifty*, any party to proceedings before a water court in which such court has given a final judgment may appeal against such judgment to the Appellate Division of the Supreme Court. Appeals from orders or awards of a water court.

(2) Any such appeal shall be prosecuted as if it were an appeal from a decision of a provincial division of the Supreme Court, or in the case of an appeal from the South-West Africa Water Court, of the High Court of South-West Africa, and all the provisions applicable in relation to an appeal from any such decision shall *mutatis mutandis* apply in respect of an appeal under this section.

(3) Pending the determination of such an appeal, the judge who presided over the water court which granted the order or award in respect of which such appeal is pending or, if such judge is not available, any other judge attached to the same division of the Supreme Court of South Africa or, in the case of the South-West Africa Water Court, of the High Court of South-West Africa, shall have power to grant a stay of execution in whole or in part of such order or award upon such terms and conditions as to him appear just.

50. (1) The parties to any dispute concerning the use, diversion or appropriation of water, may in writing agree to submit the matter in dispute for final decision to a water court, and thereupon any order or award made by the water court in regard to the matter in question shall be binding upon the said parties and shall not be subject to appeal to any court. Agreement to accept decision of water court as final, and settlements during proceedings.

(2) If the parties to a dispute which is the subject of proceedings before a water court arrive at a settlement during the course of such proceedings, the water court may make such settlement an order of court, provided the water court is satisfied that the settlement is clear and comprehensible and that the terms thereof are reasonable and are not in conflict with any provision of this Act.

51. (1) Any order or award of a water court affecting rights to water which is final and which is not subject to appeal, or as to which no appeal has been noted within the prescribed time, or as to which an appeal has been noted but has not been prosecuted or has been dismissed, or any order or award made upon appeal to the Appellate Division of the Supreme Court under this Act shall, if the water court or the said Appellate Division, as the case may be, so directs, upon production of the said order or award, be registered by the registrar of deeds in charge of the deeds registry concerned against the title deed. Registration of orders and awards against title deeds of land concerned.

enige grond waarop die bevel of toekenning betrekking het, geregistreer en in die gepaste registers aangeteken word, en die eienaar van sodanige grond moet vir die doel sy titelbewys oorlê.

(2) Die koste van bedoelde registrasie word betaal deur een of ander party by die verrigtings ingevolge waarvan daardie bevel of toekenning uitgevaardig of gedoen is, na gelang die waterhof of genoemde Appèlafdeling mag gelas.

(3) Indien die titelbewys van sodanige grond nie geredelik vir registrasiedoeleindes oorgelê kan word nie, moet die betrokke registrateur van aktes daardie bevel of toekenning op die duplikaat-titelbewys wat in sy registrasiekantoor gehou word en in die gepaste registers in daardie registrasiekantoor aanteken, en geen verdere transaksie betreffende bedoelde grond mag geregistreer word nie tot tyd en wyl die registrasie van bedoelde bevel of toekenning deur endossement daarvan op die titelbewys geskied het, en genoemde registrateur van aktes word hierby gemagtig om op bedoelde titelbewys beslag te lê en die nodige endossement daarop aan te bring wanneer dit om enige rede by sy registrasiekantoor ingedien word.

Oorwegings in ag geneem te word by bepaling van 'n eienaar se deel van openbare water.

52. (1) By die bepaling van 'n oewereienaar se deel van die normale stroming van 'n openbare stroom by die toepassing van sub-artikel (1) van artikel *nege*, moet 'n waterhof in ag neem—

- (a) die aard van die grond wat besproei gaan word;
- (b) die betreklike oppervlakte van die besproeibare grond op die onderskeie stukke grond wat die onderwerp van oorspronklike toekennings was en waarvan die eienaars tot die gebruik van water van die openbare stroom waaraan sodanige grond oewergrond is, geregtig is;
- (c) enige natuurlike waterbronne op bedoelde onderskeie stukke grond, uitgesonderd water van die betrokke openbare stroom verkry;
- (d) dat die hoeveelheid water wat redelikerwys vir landbou-doeleindes gebruik kan word, tussen die betrokke oewereienaars gereël behoort te word volgens die hoeveelheid water wat in die stroom vloei;
- (e) die diepte van die water benodig per eenheid besproeibare grond vir die voordelige besproeiing van daardie grond;
- (f) enige ander aangeleenthede wat hy nodig ag ten einde tot 'n redelike verdeling van die betrokke water te kan geraak:

Met dien verstande dat by die toepassing van die oorweging in paragraaf (b) bedoel, 'n waterhof nie, vir die verdeling van die normale stroming van 'n openbare stroom, 'n groter oppervlakte besproeibare grond op enige in daardie paragraaf bedoelde stuk grond in aanmerking neem nie as 'n oppervlakte wat hy in verhouding ag tot die totale oppervlakte grond wat besproei sou kon word indien die totale hoeveelheid water wat gewoonlik vir verdeling beskikbaar is aan daardie stuk grond toegeken sou word.

(2) By 'n beslissing oor 'n aansoek ingevolge artikel *negentien*, moet 'n waterhof in aanmerking neem—

- (a) die jaarlikse reënval in die gebied waar die applikant se grond geleë is;
- (b) die aantal kere wat die betrokke openbare stroom waarskynlik gedurende 'n gemiddelde jaar sal vloei;
- (c) die verdamping in die betrokke gebied;
- (d) die diepte van water benodig per eenheid besproeibare grond vir die voordelige besproeiing van sodanige grond;
- (e) die hoeveelheid water wat onder die omstandighede redelikerwys opgegaar behoort te word om oeste te verkry of vir die ander doeleindes in sub-artikel (1) van artikel *tien* beskryf;
- (f) enige natuurlike waterbronne op die betrokke grond afgesien van water wat van die betrokke openbare stroom verkry word; en
- (g) enige ander aangeleenthede wat hy nodig ag ten einde tot 'n regverdigte beslissing in die saak te kan geraak.

(3) Geen oewereienaar is geregtig om meer water, hetsy normale stroming of surpluswater, vir landbou- of stedelike doeleindes na sy oewergrond uit te keer, of op te dam en op te gaar nie, as wat hy redelikerwys verwag kan word om vir sodanige doeleindes te gebruik, en die hoeveelheid water aldus uitgekeer of opgedam en opgegaar, mag nie meer wees as wat nodig is om daardie water op doeltreffende en ekonomiese wyse vir sodanige doeleindes aan te wend nie.

of any land to which the order or award refers and recorded in the appropriate registers, and the owner of any such land shall produce his title deeds for the purpose.

(2) The cost of such registration shall be borne by one or other of the parties to the proceedings in pursuance of which such order or award was made, as the water court or the said Appellate Division may direct.

(3) If the title deed of any such land cannot readily be produced for purposes of registration, the registrar of deeds concerned shall note the said order or award on the duplicate title deed filed in his registry and in the appropriate registers in that registry, and no further transaction relating to the said land shall be registered until registration of the said order or award has been completed by endorsement thereof on the title deed, and the said registrar of deeds is hereby authorized to impound the said title deed and to make the necessary endorsement thereon whenever it may for any reason be lodged in his registry.

52. (1) In determining a riparian owner's share of the normal flow of a public stream for the purposes of sub-section (1) of section *nine*, a water court shall take into consideration—

Considerations to be applied in determining an owner's share of public water.

- (a) the nature of the soil which is to be irrigated;
- (b) the comparative extents of irrigable land on the respective pieces of land which formed the subject of original grants, the owners of which are entitled to the use of the water of the public stream to which such land is riparian;
- (c) any natural sources of water supply on the said respective pieces of land other than that derived from the public stream in question;
- (d) that the quantity of water which may reasonably be used for agricultural purposes should be regulated as between the riparian owners concerned according to the quantity of water flowing in the stream;
- (e) the depth of water required per unit of irrigable land for the beneficial irrigation of such land;
- (f) any other features which it considers necessary in order to arrive at a fair apportionment of the water in question:

Provided that, in applying the consideration described in paragraph (b), a water court shall not, for the purpose of apportioning the normal flow of a public stream, take into account a greater area of irrigable land on any piece of land referred to in the said paragraph than an area which it deems to be commensurate with the total area of land which might be irrigated if the total quantity of the water ordinarily available for apportionment were allotted to such piece of land.

(2) In adjudicating upon any application made in terms of section *nineteen* a water court shall take into consideration—

- (a) the annual rainfall in the area in which the applicant's land is situated;
- (b) the number of times during an average year that the public stream in question is likely to flow;
- (c) the evaporation in the area in question;
- (d) the depth of water required per unit of irrigable land for the beneficial irrigation of such land;
- (e) the quantity of water which, under the circumstances, should reasonably be stored for the purpose of obtaining crops or for such other purposes as are described in sub-section (1) of section *ten*;
- (f) any natural sources of water supply on the land affected other than that derived from the public stream in question; and
- (g) any other features which it considers necessary in order to arrive at a just decision in the matter.

(3) No riparian owner shall be entitled to divert on to his riparian land or to impound and store for use for agricultural or urban purposes more water, whether normal flow or surplus water, than he can reasonably be expected to use for such purposes, and the quantity of water so diverted or impounded and stored shall not be greater than is required to apply such water efficiently and economically to such purposes.

(4) Onvoordelige besproeiing van veld deur dit dikwels en buitensporig te laat oorstrom, of die lei van openbare water op of in plekke soos brak panne, holtes, moerasse of ander plekke waaruit geen voordeel getrek sal word nie, word geag onredelike gebruik van water te wees.

(5) Geen water van 'n openbare stroom mag vir die besproeiing van veld aangewend word nie voordat alle besproeibare grond wat oewergrond aan bedoelde stroom is en wat bewerk word en deur middel van bestaande werke van sodanige water voorsien kan word, voldoende water vir redelike vereistes ontvang het: Met dien verstande dat die bepalings van hierdie subartikel nie so uitgelê word nie dat dit die besproeiing van weiveld in enige gebied waar 'n grondbewaringsplan kragtens die Grondbewaringswet, 1946 (Wet No. 45 van 1946), in werking is, vir sover nodig om weiding vir vee- of suiwelboerderydoeleindes te voorsien, belet nie.

Oorwegings by
bepaling van
normale stroming
onder wisselende
toestande.

53. (1) By die bepaling van die normale stroming van 'n openbare stroom, moet 'n waterhof dit doen op die wyse wat die geskikste is met die oog op die omgewing en die heersende plaaslike omstandighede ten opsigte van die seisoenvloei van bedoelde stroom, die klimaatsinvloede en die metodes en vereistes van besproeiing, en, behoudens die bepalings van subartikels (2) en (3), enige ander aangeleenthede in aanmerking neem wat hy in die omstandighede van elke besondere geval nodig ag ten einde tot 'n regverdige en billike bepaling te kan geraak.

(2) 'n Openbare stroom word nie geag 'n normale stroming te hê nie, tensy 'n gedeelte van die werklike en sigbare stroming van fonteine, sydeling van enige aard, insluitende terugsypeling van besproeide grond, smeltende sneeu, die gestadige dreinerings van moerasse, vleie, natuurlike of inheemse bosse of ander dergelike bronne verkry word.

(3) Ten opsigte van enige openbare stroom in die provinsie Kaap die Goeie Hoop, wat ingevolge een of ander wet deur 'n bevoegde hof standhoudend verklaar is, word die normale stroming op enige punt langs die loop van daardie stroom deur 'n waterhof op so 'n diepte of volume vasgestel as wat sal verseker dat 'n toereikende hoeveelheid water na laer oewer-eienaars sal afloop om aan die vereistes betreffende redelike gebruik van al die watervore en ander direkte besproeiingsmiddels binne die grense langs die loop van bedoelde stroom waarbinne 'n verdeling tevore gedoen is, of aan die redelike vereistes van alle besproeibare grond benede genoemde punt wat vir sodanige vereistes afhanklik is van water wat by daardie punt verby vloei, te voldoen.

Prosedure deur
waterhof in ag
geneem te
word.

54. Die prosedure van 'n waterhof is volgens die bepalings van hierdie Wet en regulasies kragtens artikel vyf-en-vyftig uitgevaardig: Met dien verstande dat waar onder besondere omstandighede geen sodanige bepalings of regulasies bestaan wat van toepassing is nie, 'n waterhof handel op die wyse en volgens die beginsels wat hy die geskikste ag om wesentlik reg te laat geskied en die oogmerke en bepalings van hierdie Wet uit te voer.

Waterhof-
regulasies.

55. Die Minister kan regulasies uitvaardig betreffende—

- (a) die prosedure in waterhowe, met inbegrip van die prosedure wat in verband met die registrasie van bevele of toekennings ingevolge artikel een-en-vyftig en van serwitute ingevolge artikel honderd een-en-vyftig gevolg moet word;
- (b) die gelde wat in waterhowe gevorder kan word en die toelaes betaalbaar aan die lede daarvan wat nie in die voltydse diens van die Staat is nie;
- (c) die aanstelling van 'n registrateur en ander amptenare van 'n waterhof;
- (d) die vorms en bestelling van kennisgewings en ander dokumente wat ingevolge hierdie Wet in verband met verrigtings in 'n waterhof gegee of bestel moet word; en
- (e) in die algemeen enige ander aangeleenthede wat hy nodig of dienstig ag om voor te skryf vir sover dit die funksionering van waterhowe betref.

HOOFSTUK V.

STAATSWERKE.

Bou en beheer
van Staats-
waterwerke.

56. (1) Die Minister kan, uit gelde vir die doel deur die Parlement bewillig, en onderworpe aan die bepalings van hierdie Wet, enige Staatswaterwerk bou wat hy vir die bewaring of

(4) Any unbeneficial irrigation of veld by frequent and excessive flooding thereof, or the leading of public water onto or into places such as brak pans, hollows, swamps or any other places from which no advantage will be derived, shall be deemed to be unreasonable use of water.

(5) No water of any public stream shall be used for the irrigation of veld until all the irrigable land which is riparian to such stream and which is being cultivated and is capable of being supplied with such water by means of existing works has received sufficient water to meet reasonable requirements: Provided that the provisions of this sub-section shall not be construed as precluding the irrigation of pasture land in any area in which a soil conservation scheme is in operation in terms of the Soil Conservation Act, 1946 (Act No. 45 of 1946), in so far as may be necessary for the purpose of providing grazing required for stock or dairy farming purposes.

53. (1) In determining the normal flow of a public stream, a water court shall do so in a manner best suited to the locality and to the local conditions pertaining in respect of the seasonal flow of such stream, the climatic influences and the methods and requirements of irrigation and, subject to the provisions of sub-sections (2) and (3), shall take into consideration any other features which it considers necessary in the circumstances of each particular case in order to arrive at a just and equitable determination.

Considerations in determining normal flow under varying conditions.

(2) A public stream shall not be deemed to have a normal flow unless a portion of the actual and visible flow is derived from springs, seepage of any kind, including return seepage from irrigated land, melting snow, the steady drainage from swamps, vleis, natural or indigenous forests, or other like sources of supply.

(3) In respect of any public stream in the Province of the Cape of Good Hope which has under any law been declared by a competent court to be perennial, the normal flow at any point along the course of such stream shall be fixed by a water court at such depth or volume as will ensure that a sufficient volume of water will flow down to lower riparian owners to satisfy the requirements as to reasonable use of all the water furrows and other direct means of irrigation within the limits along the course of such stream within which a distribution has previously been made, or to satisfy the reasonable requirements of all irrigable land below the said point which is dependent for such requirements upon water passing such point.

54. The procedure of a water court shall be in accordance with the provisions of this Act and regulations made under section *fifty-five*: Provided that if there be no such provisions or regulations applicable in any particular circumstances, a water court shall act in such manner and on such principles as it shall deem best fitted to do substantial justice and to carry out the objects and provisions of this Act.

Procedure to be observed by a water court.

55. The Minister may make regulations relating to—

Water court regulations.

- (a) the procedure in water courts, including the procedure to be adopted in connection with the registration of orders or awards in terms of section *fifty-one* and of servitudes in terms of section *one hundred and fifty-one*;
- (b) the fees which may be charged in water courts and the allowances which shall be paid to members thereof who are not in the full-time service of the State;
- (c) the appointment of a registrar and other officers of a water court;
- (d) the forms of and service of notices and other documents required under this Act to be given or served in connection with proceedings in a water court; and
- (e) generally any other matters which he considers it necessary or expedient to prescribe in so far as the functioning of water courts is concerned.

CHAPTER V.

GOVERNMENT WORKS.

56. (1) The Minister may, out of moneys provided by Parliament for the purpose, and subject to the provisions of this Act, construct any Government water work which he may deem necessary or desirable for the purpose of conserving or

Construction and control of Government water works.

aanwending van water of die dreinerings van grond, of vir die uithaal, opgaring of voorkoming van verspilling of beheer van water uit 'n ondergrondse bron verkry, nodig of wenslik ag.

(2) Enige Staatswaterwerk wat op die datum van inwerking-treding van hierdie Wet gebou of in aanbou is, word geag ingevolge hierdie artikel gebou of aangelê te gewees het.

(3) Ondanks andersluidende bepalings van hierdie Wet, kan die Minister uit 'n Staatswaterwerk aan enige persoon, met inbegrip van enige Staatsdepartement, die Suid-Afrikaanse Spoorweg- en Hawensadministrasie en 'n provinsiale administrasie, water voorsien of lewer vir gebruik op enige plek en vir enige doel deur die Minister goedgekeur.

(4) Die regte en voorregte verbonde aan eiendomsreg in 'n Staatswaterwerk berus by die Staat en word deur die Minister uitgeoefen en word, behalwe volgens die bepalings van paragraaf (b) van sub-artikel (1) van artikel *nege-en-sestig*, nie aan enigiemand oorgedra nie.

(5) Die beheer van 'n Staatswaterwerk, en die bevoegdheid om die neem van water van enige oppervlakte wat weens die bou van daardie werk oorstroom is, of die gebruik van of toegang tot so 'n werk of so 'n oorstroomde gebied te reël of te verbied, berus by die Minister.

(6) Wanneer die Regering vir of in verband met 'n Staatswaterwerk, of in verband met hoewes wat ingevolge die wette op nedersetting deur die Regering vir nedersettingsdoeleindes daargestel is, 'n pad aangelê het, en die beheer oor daardie pad nie deur 'n plaaslike bestuur of ander soortgelyke instelling wat regtens bevoeg is om beheer oor daardie pad uit te oefen, aanvaar is nie, kan die Minister oor bedoelde pad en oor die gebruik daarvan en die reëling van verkeer daarop beheer uitoefen, en is hy bevoeg om enige regulasies uit te vaardig wat hy vir die doel nodig ag en om vir 'n oortreding van so 'n regulasie of 'n voorskrif of bevel daarkragtens uitgevaardig en bekend gemaak op die wyse in bedoelde regulasies voorgeskryf, of 'n versuim om daaraan te voldoen, strawwe voor te skryf.

Bou van waterwerke deur Minister vir enige persoon.

57. (1) Die Minister kan, behoudens enige bestaande reg, vir of namens enige persoon 'n waterwerk bou en met so 'n persoon ooreenkomste aangaan met betrekking tot die bou van sodanige werk en enige aangeleentheid wat daarmee in verband staan.

(2) Die Minister kan te eniger tyd voor of nadat met die aanbou van so 'n werk 'n begin gemaak is, by kennisgewing in die *Staatskoerant* die bepalings van artikel *sestig* op enige in die kennisgewing omskrewe gebied toepas wat volgens sy oordeel deur daardie werk geraak word of waarskynlik geraak sal word, en daarop is bedoelde bepalings *mutatis mutandis* van toepassing asof bedoelde gebied 'n Staatswaterbeheergebied was en asof bedoelde werk 'n Staatswaterwerk was.

(3) Die Minister kan van tyd tot tyd by kennisgewing in die *Staatskoerant* die grense van 'n kragtens sub-artikel (2) omskrewe gebied verander soos hy nodig ag.

Verslae oor sekere voorgestelde werke moet in beide Huise van die Parlement ter Tafel gelê word.

58. (1) 'n Staatswaterwerk of enige daaropvolgende werke in verband daarmee waarvan die geraamde koste meer as honderd duisend pond is, word nie deur die Minister aangelê nie, tensy hy voor die datum waarop die bewilliging van geld vir die doeleindes van bedoelde werk die eerste maal deur die Volksraad oorweeg is 'n verslag in verband met daardie werk in beide Huise van die Parlement ter Tafel gelê het.

(2) 'n Verslag ingevolge sub-artikel (1) moet besonderhede bevat aantonende—

- (a) 'n beskrywing van die voorgestelde werke, met inbegrip van die kapasiteit van enige beoogde opgaarreservoir, en enige voorstelle ten opsigte van toekomstige werke wat nodig mag word vir die herstel van die kapasiteit van so 'n reservoir wat deur verslikking verminder mag word;
- (b) die geraamde koste van bedoelde werke, met afsonderlike vermelding van die koste van enige opgaarwerke of kanaal of distribusiestelsel, 'n beskrywing en die geraamde koste van enige grond of servitude wat vir die doeleindes van die werke of vir enige voorgestelde nedersetting verbonde aan die skema aangeskaf moet word, en die geraamde koste van die verkryging van enige bestaande reg waarvan die verkryging vir die doeleindes van die voorgestelde skema nodig geag word;
- (c) die geraamde koste van verlegging van enige bestaande pad of spoorweg wat as gevolg van die bou van die werke oorstroom mag word;
- (d) die doel en omvang van die skema;

utilizing any water or the drainage of land, or for abstracting, storing or preventing the waste of or controlling any water derived from any underground source.

(2) Any Government water work constructed or in the course of construction at the date of commencement of this Act shall be deemed to have been constructed or commenced under this section.

(3) Notwithstanding anything to the contrary contained in this Act, the Minister may supply or distribute water from any Government water work to any person including any department of State, the South African Railways and Harbours Administration and any provincial administration, for use at any place and for any purpose approved by the Minister.

(4) The rights and privileges of ownership in any Government water work shall be vested in the State and shall be exercised by the Minister and shall not be transferred to any person except under the provisions of paragraph (b) of sub-section (1) of section *sixty-nine*.

(5) The control of any Government water work and the power to regulate or prohibit the abstraction of any water from any area submerged as a result of the construction of such work or the use of or entry into such work or any such submerged area is vested in the Minister.

(6) Whenever the Government has constructed any road for or in connection with a Government water work, or in connection with any holdings which have been established by the Government for the purposes of land settlement in terms of the laws relating to land settlement, and the control of such road has not been assumed by any local authority or other like institution which is lawfully entitled to exercise control over that road, the Minister may exercise control over such road and over the use thereof and the regulation of traffic thereon, and shall have power to make any regulations which he deems necessary for that purpose and to prescribe penalties for any contravention of or failure to comply with any such regulation or any direction or order issued thereunder and made known in such manner as may be prescribed in such regulations.

57. (1) The Minister may, subject to any existing right, construct any water work for or on behalf of any person and may enter into agreements with such person relating to the construction of such work and any matter incidental thereto.

Construction by Minister of water works for any person.

(2) The Minister may at any time before or after the commencement of the construction of any such work, by notice in the *Gazette* apply the provisions of section *sixty* to any area defined in the notice which in his opinion is or is likely to be affected by that work, and thereupon the said provisions shall *mutatis mutandis* apply as if the said area were a Government water control area and as if the said work were a Government water work.

(3) The Minister may from time to time by notice in the *Gazette* alter the boundaries of any area defined under sub-section (2) as he may consider necessary.

58. (1) The construction of a Government water work or any subsequent works in connection therewith whereof the estimated cost exceeds one hundred thousand pounds shall not be commenced by the Minister unless he has before the date on which the appropriation of money for the purposes of such work was first considered by the House of Assembly laid upon the Tables of both Houses of Parliament a report in regard to such work.

Reports on certain proposed works to be laid on Tables of both Houses of Parliament.

(2) A report under sub-section (1) shall contain particulars showing—

- (a) a description of the proposed works, including the capacity of any proposed storage reservoir, and any proposals in respect of any future works which may become necessary for the restoration of the capacity of any such reservoir which may be reduced by siltation;
- (b) the estimated cost of such works, the cost of any storage works or canal or distribution system being separately specified, a description and the estimated cost of any land or servitudes to be acquired for the purpose of the works or for any proposed land settlement scheme connected with the project, and the estimated cost of acquiring any existing right which it is deemed necessary to acquire for the purposes of the proposed scheme;
- (c) the estimated cost of deviating any existing road or railway which may be submerged as a result of the construction of the works;
- (d) the purpose and scope of the project;

- (e) die hidrografiese gegewens van die stroom wat aangewend staan te word, met inbegrip van die reënval in en kenmerke van sy opvanggebied, sy sliedraende eienskappe en algemene toestande in verband met vloedwater;
- (f) 'n raming van die waterbronne wat as gevolg van die bou van die werke vir gebruik beskikbaar sal word, 'n opgawe van die geskatte tempo van verslikking van enige reservoir voorgestel om gebou te word, en die opgaarkapasiteit voorgestel om vir verslikking afgesonder te word;
- (g) die oppervlakte en ligging van die grond wat deur middel van die voorgestelde werke besproei sou kon word, en die aard en geskiktheid van die grond vir besproeiing, soos deur 'n omvattende bodem-opname bepaal;
- (h) 'n beskrywing van sodanige grond;
- (i) die waarskynlike mate waarin bedoelde grond en ook ander grond waarskynlik as 'n regstreekse gevolg van besproeiing deur middel van die werke brak sal word;
- (j) die aantal eienaars van sodanige grond wat waarskynlik daarby sal baat indien die werke gebou word en, indien voorgestel word om enige sodanige grond of enige Kroongrond ingevolge die wette betreffende nedersettings vir nedersettingsdoeleindes te gebruik, die aantal hoewes voorgestel om toegeken te word en die geraamde koste van verbetering van daardie hoewes voordat dit toegeken word;
- (k) die oppervlakte van die grond van elk van daardie hoewes of ten opsigte waarvan elk van bedoelde eienaars waarskynlik water van die skema sal ontvang;
- (l) die jaarlikse kwota water voorgestel om ingevolge paragraaf (b) van sub-artikel (2) van artikel *drie-en-sestig* vir landboudoeleindes vasgestel te word;
- (m) die soorte gewasse waarvoor die betrokke gebied waarskynlik geskik sal wees;
- (n) die bestaande aanwending van water in daardie gebied, die ontwikkeling wat as gevolg daarvan plaasgevind het, en besonderhede van bestaande waterregte binne bedoelde gebied en van die mate waarin daardie regte uitgeoefen word;
- (o) enige ander gebruik as gebruik vir landboudoeleindes waarvoor voorgestel word om water van die werke te voorsien of waarvoor sodanige water aangewend kan word, en die moontlike mate en omvang van sodanige gebruik;
- (p) of hidro-elektriese krag deur middel van die werke ontwikkel sal kan word, of die ontwikkeling van sodanige krag beoog word, en, indien wel, die omvang daarvan, die voorgestelde aanwending van sodanige krag, en die vorderings wat waarskynlik daarvoor gehef sal word;
- (q) die voorgestelde metode van delging van die koste, of enige gedeelte van die koste van die werke deur gebruikers van water deur middel van die werke voorsien en, indien al die koste nie terugbetaal moet word nie, die bedrag wat wel terugbetaal moet word en die redes vir die subsidiëring van die skema deur die Regering;
- (r) die geraamde jaarlikse administrasie- en instandhoudingskoste van die skema, en die belastinge of vorderings wat waarskynlik ingevolge artikel *ses-en-sestig* gehef sal word;
- (s) 'n algemene opsomming van die inkomste wat na verwagting deur die Regering uit die werking van die skema verkry sal word;
- (t) of voorgestel word dat die Minister die skema moet administreer en beheer, dan wel van die hand sit of die administrasie en beheer daarvan volgens voorskrif van artikel *nege-en-sestig* moet oordra;
- (u) enige ander feite wat ter sake mag wees betreffende die moontlikheid en uitvoerbaarheid van die skema; en
- (v) enige ander sake wat die Minister mag nodig ag om in te sluit.

Goewerneur-generaal kan beheergebiede verklaar.

59. (1) Die Goewerneur-generaal kan, by proklamasie in die *Staatskoerant*, die in daardie proklamasie omskrewe gebied, wat—

- (a) 'n gebied is behelsende elke stuk grond wat, of 'n deel waarvan, geraak word of waarskynlik geraak sal word deur 'n Staatswaterwerk gebou of geag gebou te gewees het of waaraan gebou word of wat bedoel is om gebou te word, kragtens hierdie Wet; of

- (e) the hydrographic data of the stream proposed to be exploited, including rainfall in and characteristics of its catchment area, its silt carrying properties and general conditions in regard to floods;
- (f) an estimate of the water resources which will become available for use as a result of the construction of the works, a statement of the estimated rate of siltation of any reservoir proposed to be constructed, and the storage capacity proposed to be set aside for siltation;
- (g) the area and location of the land which could be irrigated by means of the proposed works and the nature and suitability of the soil on such land for irrigation as disclosed by a comprehensive soil survey;
- (h) a description of such land;
- (i) the probable extent to which such land as well as other land is likely to become affected by brak as a direct result of irrigation by means of the works;
- (j) the number of owners of such land who are likely to benefit if such works are constructed and, if it is proposed to use any such land or any Crown land for the purpose of land settlement in terms of the laws relating to land settlement, the number of holdings proposed to be allotted and the estimated cost of improving such holdings before allotment;
- (k) the area of land on each such holding or in respect of which each such owner is likely to receive water from the scheme;
- (l) the annual quota of water for agricultural use which it is proposed to fix in terms of paragraph (b) of subsection (2) of section *sixty-three*;
- (m) the kinds of crops for which the area in question is likely to be suitable;
- (n) the existing utilization of water in that area, the development which has taken place as a result thereof, and details of existing water rights within the said area and of the extent to which such rights are being exercised;
- (o) any use, other than use for agricultural purposes, for which it is proposed to supply water from the works or for which such water can be utilized, and the possible extent and scope of such utilization;
- (p) whether hydro-electric power could be developed by means of the works, whether it is proposed to develop such power, and, if so, the extent thereof, the proposed utilization of such power, and the charges likely to be made therefor;
- (q) the proposed method of repayment of the cost, or any portion of the cost of the works by users of water supplied by means of the works, and, if the whole of such cost is not to be repaid, the amount which is to be repaid and the reasons for the subsidization of the scheme by the Government;
- (r) the estimated annual administration and maintenance costs of the scheme, and the rates or charges which are likely to be assessed under section *sixty-six*;
- (s) a general summary of the revenue expected to be derived by the Government from the operation of the scheme;
- (t) whether it is proposed that the Minister will administer and control the scheme or dispose thereof or delegate the administration and control thereof as provided in section *sixty-nine*;
- (u) any other facts which may be relevant to the feasibility and practicability of the project; and
- (v) any other matters which the Minister may deem fit to include.

59. (1) The Governor-General may, by proclamation in the *Gazette*, declare the area defined in such proclamation, being—

Governor-General
may declare
control areas.

- (a) an area comprising every piece of land which or a portion whereof is affected or likely to be affected by any Government water work constructed or deemed to have been constructed or in course of construction or intended to be constructed under this Act; or

(b) 'n gebied is waarin die uitneem, aanwending, voorsiening of distribusie van die water van 'n openbare stroom volgens sy oordeel in die openbare belang, of met die oog op verbetering van die standaard van voordelige aanwending van daardie water deur persone wat geregtig is om dit te gebruik, beheer behoort te word, tot 'n Staatswaterbeheergebied verklaar, en kan so 'n proklamasie van tyd tot tyd op dergelike wyse wysig of intrek.

(2) Wanneer volgens die oordeel van die Goewerneur-generaal—

(a) die vloei van 'n openbare stroom in 'n bepaalde gebied in die landsbelang gereël of beheer behoort te word deur dit op te dam, of die bedding skoon te maak, dieper te maak, wyer te maak of reguit te maak of die loop daarvan te verander, of die ander stappe te doen wat nodig mag wees om slik te voorkom of te beheer, of ten einde die moontlikheid van skade aan oewergrond aan daardie stroom ingeval van oorstroming te verminder; of

(b) grond nodig is vir die beskerming van enige gedeelte van die opvanggebied van 'n openbare stroom, kan die Goewerneur-generaal by proklamasie in die *Staatskoerant* die bedding van so 'n stroom of enige gedeelte daarvan, tesame met so 'n gedeelte van die grond aan die een of ander kant of aan weerskante van daardie bedding of enige ander gebied binne die opvanggebied van bedoelde stroom geleë, wat hy vir so 'n doel nodig ag, en wat in die proklamasie omskryf word, tot 'n opvangbeheergebied verklaar en hy kan so 'n proklamasie van tyd tot tyd op dergelike wyse wysig of intrek.

(3) 'n Kragtens artikel *agt-en-negentig* van die „Besproeiings- en Waterbewarings Wet, 1912” (Wet No. 8 van 1912), omskrewen Staatsbesproeiingsgebied word geag kragtens sub-artikel (1) van hierdie artikel tot 'n Staatswaterbeheergebied verklaar te gewees het, en 'n gebied wat kragtens artikel *sewe ter* van daardie Wet tot 'n vloedbeheergebied verklaar is, word geag kragtens sub-artikel (2) van hierdie artikel tot 'n opvangbeheergebied verklaar te gewees het.

Onteining van grond, serwitute ens., in sekere gebiede.

60. (1) Die Minister kan, onderworpe aan 'n verpligting om vergoeding te betaal soos hieronder bepaal, grond of 'n reg ten opsigte van grond of 'n bestaande reg onteien of enige stof of materiaal op grond toeëien of grond of 'n waterwerk op grond tydelik gebruik, binne 'n Staatswaterbeheergebied of 'n opvangbeheergebied, soos hy nodig ag vir of in verband met 'n Staatswaterwerk binne so 'n Staatswaterbeheergebied of, al na die geval, vir die doeltreffende uitvoering binne so 'n opvangbeheergebied van enige werk wat hy in verband met een of ander van die in sub-artikel (2) van artikel *nege-en-vyftig* genoemde doeleindes nodig ag.

(2) Minstens drie maande voordat die Minister sodanige grond of reg ten opsigte van grond of bestaande reg onteien of enige materiaal of stof op sodanige grond toeëien of sodanige grond of waterwerk begin gebruik, moet hy per aangetekende pos aan die eienaar van die grond, reg, waterwerk, stof, materiaal of bestaande reg en aan iedereen wat volgens die titelbewys van bedoelde grond of die registers van die Registrateur van Mynbriewe of van enige ander Regeringskantoor waar regte toegestaan ingevolge enige wet met betrekking tot prospekter- of mynbouwerksaamhede aangeteken word, enige belang in sodanige grond het en wie se verblyfplek hy gereedlik kan vaststel, 'n kennisgewing stuur waarin die betrokke grond, reg, waterwerk, stof, materiaal of bestaande reg, en die vergoeding daarvoor aangebied, duidelik en volledig uiteengesit word: Met dien verstande dat as die verblyfplek van so 'n eienaar of iemand wat soos voormeld enige belang het, nie gereedlik vasgestel kan word nie, die Minister bedoelde kennisgewing deur publikasie in drie agtereenvolgende gewone uitgawes van die *Staatskoerant*, en eenmaal per week gedurende drie agtereenvolgende weke in 'n nuusblad in omloop in die distrik waarin bedoelde grond of waterwerk geleë is of waarin genoemde bestaande reg uitoefenebaar is, na gelang van die geval, moet laat gee, en bedoelde kennisgewing word in so 'n geval geag gegee te gewees het op die dag waarop dit die laaste maal gepubliseer word.

(3) (a) Die bedrag wat by wyse van vergoeding in die geval van onteining van grond aangebied word, bedra hoogstens—

(i) die billike markwaarde van die grond, sonder verbeterings; plus

(ii) die billike waarde van enige noodsaaklike of nuttige verbeterings daarop; plus

- (b) an area within which the abstraction, utilization, supply or distribution of the water of any public stream should in his opinion be controlled in the public interest or with a view to raising the standard of beneficial utilization of such water by the persons entitled to use that water,

to be a Government water control area, and may from time to time in like manner amend or repeal any such proclamation.

- (2) Whenever, in the opinion of the Governor-General—

- (a) the flow of a public stream in any particular area should in the national interest be regulated or controlled by damming, cleaning, deepening, widening, straightening or altering the course of the channel or by taking such other steps as may be necessary for the prevention or control of silt or for the purpose of lessening the possibility of damage to land which is riparian to such stream in the event of flood; or
- (b) any land is required for the protection of any portion of the catchment area of a public stream,

the Governor-General may, by proclamation in the *Gazette* declare the channel of any such stream or any portion thereof, together with such portion of the land on either side or on both sides of the said channel, or any other area situated within the catchment of such stream, as he may consider necessary for such purpose, and as may be defined in the proclamation, to be a catchment control area, and he may from time to time in like manner amend or repeal any such proclamation.

(3) Any Government irrigation area defined under section *ninety-eight* of the Irrigation and Conservation of Waters Act, 1912 (Act No. 8 of 1912), shall be deemed to have been declared a Government water control area under sub-section (1) of this section, and any area declared under section *seven ter* of the said Act to be a flood control area shall be deemed to have been declared a catchment control area under sub-section (2) of this section.

60. (1) The Minister may, subject to an obligation to pay compensation as hereinafter provided, expropriate any land or any right in respect of land or any existing right or appropriate any substance or material on any land or temporarily use any land or any water work on any land within a Government water control area or a catchment control area, as he may consider necessary for or in connection with any Government water work within such Government water control area or, as the case may be, for the effective carrying out of any work which he may consider necessary in connection with any of the purposes mentioned in sub-section (2) of section *fifty-nine* within such catchment control area.

Expropriation of land, servitudes, etc., in certain areas.

(2) Not less than three months before the Minister expropriates any such land or right in respect of land or existing right or appropriates any material or substance on any such land or commences to use any such land or water work, he shall give to the owner of the land, right, water work, substance, material or existing right and to every person who is shown upon the title deed of such land, or in the records of the Registrar of Mining Titles or of any other Government office in which rights granted under any law relating to prospecting or mining are recorded, to have any interest in such land and whose whereabouts he can readily ascertain, a notice by registered post, setting forth clearly and fully the land, right, water work, substance, material or existing right in question and the compensation offered therefor: Provided that if the whereabouts of any such owner or person having any interest as aforesaid is not readily ascertainable, the Minister shall cause such notice to be given by publication in three consecutive ordinary issues of the *Gazette* and once a week during three consecutive weeks in a newspaper circulating in the district in which the said land or water work is situated or in which the said existing right is exercisable, as the case may be, and the said notice shall in such event be deemed to have been given on the day on which the last publication thereof takes place.

- (3) (a) The amount of compensation to be offered in the case of an expropriation of land shall not exceed—

- (i) the fair market value of the land, without improvements; plus
- (ii) the fair value of any necessary or useful improvements thereon; plus

Amended by
Act 75 of 1957
provides for
increased
compensation
but further amended
by Act 71 of 1965
at 200
promised by the
Government

- (iii) die billike waarde van enige luukseverbeterings daarop, maar hoogstens die werklike koste van sodanige verbeterings; plus
- (iv) 'n bedrag om enige werklike ongerief of verlies wat waarskynlik deur die onteining veroorsaak sal word, te vergoed.
- (b) Die bedrag wat by wyse van vergoeding aangebied word in die geval van onteining van 'n reg ten opsigte van grond of 'n bestaande reg, of in die geval van 'n toeëiening van enige stof of materiaal op grond, of in die geval waar grond of 'n waterwerk tydelik gebruik word, bedra hoogstens 'n som om enige ongerief of verlies deur sodanige onteining, toeëiening of tydelike gebruik veroorsaak, te vergoed.
- (c) Enige verhoging in die waarde van in paragraaf (a) of (b) bedoelde grond wat ontstaan deur die bou, werking of uitbreiding van 'n Staatswaterwerk, of enige werk of handeling wat die Minister in verband met een of ander van die in paragraaf (b) van sub-artikel (1) of of sub-artikel (2) van artikel *nege-en-vyftig* bedoelde aangeleenthede mag uitvoer of verrig, word nie by die vasstelling van die in daardie paragrawe bedoelde bedrag van vergoeding in aanmerking geneem nie.
- (4) (a) Indien 'n eienaar weier om die deur die Minister aangebode vergoeding te aanvaar, het enige party onderworpe aan die bepalinge van paragraaf (b), die reg om die bedrag daarvan deur 'n waterhof te laat vasstel, en in so 'n geval is die bepalinge van sub-artikel (3) *mutatis mutandis* van toepassing.
- (b) Waar 'n aansoek om die vasstelling van die bedrag van enige sodanige vergoeding nie binne 'n tydperk van een jaar vanaf die datum van die betrokke aanbod by die waterhof ingedien word nie, word die betrokke eienaar geag die aangebode bedrag te aanvaar het.
- (5) Die bepalinge van hierdie artikel is ondanks enigiets in enige ander wet vervat, van toepassing ten opsigte van enige grond, reg, waterwerk, stof, materiaal of bestaande reg in sub-artikel (1) bedoel—
 - (a) in enige gebied wat 'n afgesonderde natuurlike gebied is ingevolge die Naturelletrust en -grond Wet, 1936 (Wet No. 18 van 1936); of
 - (b) in enige gebied wat ingevolge daardie Wet 'n oopgestelde gebied is:

Met dien verstande dat die Minister geen bevoegdheid deur hierdie artikel aan hom verleen ten opsigte van enige grond, reg, waterwerk, stof of materiaal in so 'n gebied uitoefen nie behalwe met goedkeuring van die Goewerneur-generaal.

(6) By verstryking van 'n tydperk van drie maande vanaf die datum waarop die kennisgewing bedoel by sub-artikel (2) gegee is, of te eniger tyd voor sodanige verstryking indien alle belanghebbende partye daartoe instem, kan die departement na goeddunke onverwyld die grond, waterwerk, stof of materiaal waarop die kennisgewing betrekking het, betree en in besit neem of gebruik, of die reg uitoefen, ongeag of oor die bedrag by wyse van vergoeding betaal te word, ooreengekom is, en of dit vasgestel is soos hierbo bepaal.

(7) Wanneer die Minister 'n onteining ingevolge die bepalinge van hierdie artikel gedoen het—

- (a) moet die eienaar of ander persoon wat in besit is van die titelbewys van enige betrokke grond, op aanvraag daardie titelbewys aan die direkteur lewer; en
- (b) moet die registrateur van aktes in bevel van die registrasiekantoor van aktes waarin die titelbewys van die betrokke grond geregistreer is, indien deur die direkteur daartoe versoek en in afwagting van die oordrag of registrasie van sodanige grond of reg wat onteien is, na gelang van die geval, in die gepaste registers aantekeninge maak dat bedoelde grond of reg deur die Minister verkry is.

(8) Indien die Goewerneur-generaal kragtens 'n vorige wet of die Minister kragtens hierdie Wet deur onteining of andersins grond of 'n reg verkry het in verband met water wat hy geregtig is om te gebruik, te voorsien of te beheer, of in verband met 'n waterwerk wat hy gebou het of besig is of voornemens is om te bou, hetsy namens die Regering of namens enige persoon, kan die Goewerneur-generaal of die Minister, na gelang van die geval, te eniger tyd daardie grond of reg oordra aan iemand ten behoeve van wie hy bedoelde werk gebou het of besig is of voornemens is om te bou of aan wie bedoelde werk of die beheer daarvan of die gebruik, voorsiening, distribusie of beheer van bedoelde water ooreenkomstig die bepalinge van hierdie Wet of daardie vorige wet oorgedra is.

- (iii) the fair value of any luxurious improvements thereon, not exceeding the actual cost of such improvements; plus
- (iv) a sum to make good any actual inconvenience or loss likely to be caused by the expropriation.
- (b) The amount of compensation to be offered in the case of an expropriation of any right in respect of land or any existing right, or in the case of an appropriation of any substance or material on any land, or in the case where any land or water work is temporarily used, shall not exceed a sum to make good any inconvenience or loss caused by such expropriation, appropriation or temporary use.
- (c) Any enhancement in the value of land referred to in paragraph (a) or (b) which may be caused by the construction, operation or extension of a Government water work, or any work or act which the Minister may carry out or perform in connection with any of the matters referred to in paragraph (b) of sub-section (1) or sub-section (2) of section *fifty-nine* shall not be taken into account in determining the amount of compensation referred to in the said paragraphs.
- (4) (a) If an owner refuses to accept the compensation offered by the Minister, either party shall, subject to the provisions of paragraph (b), have the right to have the amount thereof determined by a water court, and in that event the provisions of sub-section (3) shall *mutatis mutandis* apply.
- (b) Where an application for the determination of the amount of any such compensation is not lodged with the water court within a period of one year from the date of the relevant offer, the owner concerned shall be deemed to have accepted the amount offered.
- (5) Notwithstanding anything contained in any other law, the provisions of this section shall apply in respect of any land, right, water work, substance, material or existing right referred to in sub-section (1)—
 - (a) in any area which is a scheduled native area in terms of the Native Trust and Land Act, 1936 (Act No. 18 of 1936); or
 - (b) in any area which is a released area in terms of that Act:

Provided that the Minister shall not exercise any powers vested in him by this section in respect of any land, right, water work, substance or material within any such area except with the approval of the Governor-General.

(6) Upon the expiration of a period of three months from the date on which the notice referred to in sub-section (2) was given, or at any time prior to such expiration if agreed to by all interested parties, the department may forthwith enter upon and take possession of or use the land, water work, substance or material or exercise the right, to which such notice refers, as it may deem fit, irrespective of whether or not the amount to be paid in compensation has been agreed upon or settled as hereinbefore provided.

(7) Whenever the Minister has made an expropriation under the provisions of this section—

- (a) the owner or other person in possession of the title deed to any land concerned shall upon demand deliver such title deed to the director; and
- (b) the registrar of deeds in charge of the deeds registry in which the title deed to the land concerned is registered shall, if requested thereto by the director and pending the transfer or registration of the said land or right expropriated, as the case may be, make a note in the appropriate registers that such land or right has been acquired by the Minister.

(8) If the Governor-General has under any prior law, or the Minister has under this Act, acquired by expropriation or otherwise, any land or right in connection with any water which he is entitled to use, supply or control, or in connection with any water work which he has constructed or is constructing or intends to construct, whether on behalf of the Government or on behalf of any person, the Governor-General or the Minister, as the case may be, may at any time transfer such land or right to any person on behalf of whom he has constructed or is constructing or intends to construct such work or to whom the said work or the control thereof or the use, supply, distribution or control of the said water has been transferred in accordance with the provisions of this Act or the said prior law.

(9) Die bepalings van artikel *honderd twee-en-veertig*, paragraaf (c) van sub-artikel (1) van artikel *honderd vyf-en-veertig*, sub-artikel (2) van artikel *honderd ses-en-veertig* en sub-artikel (2) van artikel *honderd een-en-vyftig* is *mutatis mutandis* van toepassing in verband met 'n serwituut kragtens hierdie artikel verkry.

Opheffing van eienaar se regte in of oor grond in 'n opvangbeheergebied vir sekere doeleindes.

61. (1) Wanneer enige gebied kragtens sub-artikel (2) van artikel *nege-en-vyftig* tot 'n opvangbeheergebied verklaar is, kan die Minister—

- (a) uit gelde deur die Parlement vir die doel bewillig, sodanige werk as wat hy in verband met enigeen van die doeleindes in daardie sub-artikel uiteengesit, nodig ag, deur die departement op enige grond in daardie gebied laat uitvoer;
- (b) by skriftelike kennisgewing vir 'n tydperk in die kennisgewing vermeld (watter tydperk van tyd tot tyd op dergelike wyse verleng kan word) enigeen van of al die regte van 'n eienaar in of oor enige grond in bedoelde gebied ophef, en na verstryking van 'n tydperk van drie maande vanaf die datum van die kennisgewing, die grond betree en daarvan besit neem ten einde daardie werk uit te voer.

(2) Die Minister kan ten opsigte van enige grond in 'n opvangbeheergebied na goeddunke 'n opheffing van regte ingevolge paragraaf (b) van sub-artikel (1) intrek in die geval van 'n eienaar wat binne drie maande vanaf die datum van die in daardie sub-artikel bedoelde kennisgewing 'n skriftelike onderneming gegee het om op sy eie koste die werke te bou of maatreëls te tref (soos in die onderneming vermeld) wat die Minister mag gelas, en kan, indien 'n eienaar volgens sy oordeel versuim het om aan die bepalings van so 'n onderneming te voldoen, aan daardie eienaar een maand skriftelik kennis van die beëindiging van bedoelde intrekking gee.

(3) (a) Die Minister kan te eniger tyd by skriftelike kennisgewing enige opheffing van regte ingevolge sub-artikel (1) intrek, en daarop word die opgehefte regte aan die eienaar of sy regsopvolger herstel, onderworpe aan die bepalings van paragraaf (c) en die voorwaardes betreffende okkupasie en gebruik van die grond wat die Minister dit goetvind om op te lê, en bedoelde voorwaardes is verbonde aan die grond en word op skriftelike versoek van die Minister gratis deur die registrateur van aktes in bevel van die registrasiekantoor van aktes waarin die titelbewys van die betrokke grond geregistreer is, op die titelbewys van daardie grond en in die gepaste registers aangeteken.

(b) By die toepassing van paragraaf (a) moet die eienaar of ander persoon in besit van die titelbewys van die grond op aanvraag daardie titelbewys aan die direkteur lewer, en genoemde registrateur van aktes moet, indien deur die direkteur daartoe versoek, en in afwagting van die aantekening van bedoelde voorwaardes op daardie titelbewys, 'n aantekening van daardie voorwaardes in die gepaste registers maak.

(c) Die Minister kan van tyd tot tyd belastinge hef op enige grond binne 'n opvangbeheergebied waarin enige werk kragtens hierdie artikel deur hom uitgevoer is, hetsy bedoelde werk op daardie grond uitgevoer is al dan nie, en kan enige belastinge aldus gehef op die eienaar van bedoelde grond verhaal.

(d) Die intrekking van enige opheffing van regte ingevolge paragraaf (a) van hierdie sub-artikel word nie geag die Minister daarvan te weerhou om te eniger tyd daarna enige sodanige regte ten opsigte van die betrokke grond ingevolge paragraaf (b) van sub-artikel (1) weer op te hef nie.

(4) Die bepalings van die voorbehoudsbepaling by sub-artikel (2) van artikel *sestig* is *mutatis mutandis* van toepassing ten opsigte van die bestelling van 'n kennisgewing ingevolge paragraaf (b) van sub-artikel (1) of sub-artikel (2) van hierdie artikel.

Beheer en gebruik van openbare water in 'n Staatswaterbeheergebied.

62. (1) (a) Iemand wat op die datum waarop 'n gebied kragtens sub-artikel (1) van artikel *nege-en-vyftig* tot 'n Staatswaterbeheergebied verklaar word, water van 'n openbare stroom in daardie gebied neem, opdam of opgaar, deur middel van dan bestaande waterwerke wat wettiglik gebou is, moet binne drie maande nadat hy deur die direkteur daartoe aangesê word, skriftelik aan laasgenoemde besonderhede verstrek aantonnende—

- (i) sy naam, permanente adres en 'n beskrywing van die grond waarop die waterwerke geleë is;
- (ii) die aard en grootte van die waterwerke;

(9) The provisions of section *one hundred and forty-two*, paragraph (c) of sub-section (1) of section *one hundred and forty-five*, sub-section (2) of section *one hundred and forty-six* and sub-section (2) of section *one hundred and fifty-one* shall *mutatis mutandis* apply in relation to any servitude acquired under this section.

61. (1) Whenever any area has under sub-section (2) of section *fifty-nine*, been declared to be a catchment control area, the Minister may—

Suspension of owner's rights in or over land in a catchment control area for certain purposes.

- (a) out of moneys provided by Parliament for the purpose, cause such work as he may deem necessary in connection with any of the purposes set out in the said sub-section to be carried out by the department on any land in that area;
- (b) by notice in writing suspend for a period to be specified in such notice (which period may from time to time in like manner be extended) all or any of an owner's rights in or over any land in the said area, and at the expiration of a period of three months from the date of such notice, enter upon and take possession of the land in order to carry out such work.

(2) The Minister may in respect of any land in a catchment control area in his discretion withdraw any suspension of rights under paragraph (b) of sub-section (1) in the case of an owner who has, within three months of the date of the notice referred to in that sub-section, entered into a written undertaking to construct or carry out at his own expense such works or measures (to be specified in the undertaking) as the Minister may require, and may if in his opinion an owner has failed to comply with the terms of any such undertaking, give that owner one month's notice in writing of the termination of such withdrawal.

- (3) (a) The Minister may at any time by notice in writing cancel any suspension of rights under sub-section (1), and thereupon the suspended rights shall be restored to the owner or his successor in title subject to the provisions of paragraph (c) and to such conditions as to occupation and use of the land as the Minister may deem fit to impose, which conditions shall attach to the land and at the request in writing of the Minister be noted free of charge by the registrar of deeds in charge of the deeds registry in which the title deed to the land concerned is registered on the title deed of the said land and in the appropriate registers.
- (b) For the purpose of paragraph (a) the owner or other person in possession of the title deed to the land shall upon demand deliver such title deed to the director, and the said registrar of deeds shall, if requested thereto by the director and pending the noting of the said conditions on the said title deed, make a note of such conditions in the appropriate registers.
- (c) The Minister may from time to time assess rates on any land within a catchment control area in which any work has been carried out by him under this section whether or not such work has been carried out on that land, and may recover any rates so assessed from the owner of that land.
- (d) The cancellation of any suspension of rights in terms of paragraph (a) of this sub-section shall not be deemed to prevent the Minister at any time thereafter from again suspending any such rights in respect of the land in question in terms of paragraph (b) of sub-section (1).

(4) The provisions of the proviso to sub-section (2) of section *sixty* shall *mutatis mutandis* apply in respect of the service of any notice under paragraph (b) of sub-section (1) or sub-section (2) of this section.

62. (1) (a) Any person who at the date upon which any area is declared to be a Government water control area under sub-section (1) of section *fifty-nine*, is abstracting, impounding or storing any water from any public stream within that area by means of lawfully constructed water works then in existence, shall within three months after being called upon to do so by the director in writing communicate to the latter particulars showing—

Control and use of public water in a Government water control area.

- (i) his name, permanent address and a description of the land upon which the water works are situated;
- (ii) the nature and size of the water works;

- (iii) die waarde van daardie werke;
 - (iv) in die geval van 'n pompinstallasie, die hoeveelheid water wat daardie installasie per uur kan uitpomp;
 - (v) die oppervlakte van die grond wat jaarliks deur middel van bedoelde werke besproei is of staan te word en enige ander doel waarvoor water deur middel van bedoelde werke uitgeneem, gebruik is of staan te word; en
 - (vi) enige ander besonderhede wat die direkteur verlang, en die direkteur moet 'n register van sodanige besonderhede laat hou.
- (b) So iemand wat die water wat uitgeneem, opgedam of opgegaar is, op voordelige wyse gebruik, is geregtig op 'n permit deur die Minister uitgereik op die voorwaardes wat hy na goeddunke opleë, om hom in staat te stel om met die uitneem, opdamming of opgarig van die hoeveelheid water wat hy wettiglik uitgeneem of opgedam en opgegaar het, voort te gaan.
- (c) Niemand mag water van 'n in paragraaf (a) bedoelde openbare stroom uitneem, opdam of opgaar nie sonder dat hy die in daardie paragraaf vermelde besonderhede soos deur die direkteur verlang, verstrek het, of anders as ooreenkomstig die voorwaardes uiteengesit in 'n permit in paragraaf (b) bedoel.
- (2) (a) Niemand mag, behalwe soos in sub-artikel (1) bepaal, of op gesag van 'n permit van die Minister en op die voorwaardes in daardie permit uiteengesit, werke om water van 'n openbare stroom of 'n natuurlike bedding in so 'n Staatswaterbeheergebied op te dam, op te gaar of uit te neem, bou, verander of vergroot nie, of water van so 'n openbare stroom of natuurlike bedding opdam, opgaar of deur middel van waterwerke uitneem nie, tensy die Minister die bou van sodanige werke of die opdam, opgaar of uitneem van sodanige water by kennisgewing in die *Staatskoerant* gemagtig het, of andersins as ooreenkomstig die voorwaardes in bedoelde kennisgewing uiteengesit.
- (b) Die voorwaardes in 'n permit of kennisgewing ingevolge paragraaf (a) uiteengesit, kan bepalings insluit met betrekking tot die aard van enige werke wat gebou mag word of die grootte of omvang van sodanige werke of die hoeveelheid van enige water wat opgedam of opgegaar mag word of die stroming van enige water wat uitgeneem mag word, en verskillende voorwaardes kan ten opsigte van verskillende tydperke in enige jaar of ten opsigte van verskillende persone of kategorieë van persone uiteengesit word.
- (c) Iemand wat in so 'n Staatswaterbeheergebied 'n waterwerk gebou het ten opsigte van die bou waarvan 'n permit nie nodig is nie, moet binne een maand na voltooiing van daardie werk, skriftelik die besonderhede in sub-paragrafe (i) tot (v) van paragraaf (a) van sub-artikel (1) bedoel met betrekking tot daardie werk aan die direkteur stuur, en die direkteur moet 'n register van sodanige besonderhede laat hou.
- (d) 'n In paragraaf (c) bedoelde persoon wat versuim om aan die voorskrifte van daardie paragraaf te voldoen, is aan 'n misdryf skuldig.
- (3) Indien die Minister te eniger tyd van oordeel is dat openbare water ingevolge hierdie artikel uitgehaal of opgedam en opgegaar, nie voordelig gebruik word nie, kan hy enige permit kragtens hierdie artikel deur hom uitgereik, intrek of, in die geval van 'n persoon in paragraaf (c) van sub-artikel (2) bedoel, daardie persoon skriftelik gelas om die veranderings aan die betrokke waterwerke aan te bring wat volgens die Minister se oordeel daartoe sal lei dat bedoelde water vir voordelige gebruik beskikbaar gestel word, en daardie persoon moet binne 'n deur die Minister vasgestelde tydperk en op sy eie koste aan die Minister se opdrag voldoen.
- (4) (a) Die Minister kan na skriftelike kennisgewing aan die eienaar van enige waterwerk in private besit geleë binne 'n Staatswaterbeheergebied, die addisionele werke bou of die veranderings of herstelwerk aan daardie waterwerk aanbring, of bedoelde eienaar skriftelik gelas om binne 'n deur die Minister bepaalde tydperk op eie koste die addisionele waterwerke te bou of veranderings of herstelwerk aan te bring, wat volgens die Minister se oordeel vir die behoorlike meet en reëling van openbare water deur middel van daardie werke uitgeneem of vervoer of wat daarvoor vloei, nodig mag wees.

- (iii) the value of such works;
 - (iv) in the case of a pumping installation, the quantity of water which such installation is capable of abstracting per hour;
 - (v) the extent of land which has been or is to be irrigated annually by means of such works and any other purpose for which the water abstracted by means of the works has been or is to be used; and
 - (vi) any other particulars which the director may require,
- and the director shall cause a register of such particulars to be kept.
- (b) Any such person who is beneficially using the water abstracted, impounded or stored, shall be entitled to a permit to be issued by the Minister on such conditions as he may deem fit to impose, to enable him to continue to abstract, impound or store the quantity of water that he has been lawfully abstracting or impounding and storing.
 - (c) No person shall abstract, impound or store water from a public stream referred to in paragraph (a), without having furnished the particulars mentioned in that paragraph as required by the director, or otherwise than in accordance with the conditions specified in any permit referred to in paragraph (b).
- (2) (a) No person shall, except as provided in sub-section (1), or under the authority of a permit from the Minister and on such conditions as may be specified in that permit, construct, alter or enlarge any works for the impounding, storage or abstraction of water from a public stream or natural channel in any such Government water control area, or impound or store or by means of any water works abstract water from any such public stream or natural channel, unless the Minister has by notice in the *Gazette* authorized the construction of such works or the impounding, storage or abstraction of such water, or otherwise than in accordance with the conditions specified in any such notice.
- (b) The conditions specified in any permit or notice under paragraph (a) may include provisions relating to the nature of any works which may be constructed or the size or capacity of any such works or the quantity of any water which may be impounded or stored or the rate of flow of any water which may be abstracted, and different conditions may be specified in respect of different periods in any year or in respect of different persons or classes of persons.
 - (c) Any person who has in any such Government water control area constructed a water work in respect of the construction of which a permit is not required, shall, within one month after the completion of such work in writing communicate to the director the particulars referred to in sub-paragraphs (i) to (v) of paragraph (a) of sub-section (1) in relation to such work, and the director shall cause a register of such particulars to be kept.
 - (d) Any person referred to in paragraph (c) who fails to comply with the requirements of that paragraph, shall be guilty of an offence.
- (3) If at any time the Minister is of the opinion that public water abstracted or impounded and stored in terms of this section is not being beneficially used, he may cancel any permit issued by him under this section or, in the case of a person referred to in paragraph (c) of sub-section (2), in writing direct such person to make such alterations to the water works in question as will, in the opinion of the Minister, result in such water being made available for beneficial use, and such person shall within a period stipulated by the Minister and at his own expense comply with the Minister's directions.
- (4) (a) The Minister may after notice in writing to the owner of any privately owned water work situated within a Government water control area, construct such additional works or make such adjustments or repairs to the said water work, or in writing direct any such owner to construct, at his own expense and within a period stipulated by the Minister, such additional water works or make such adjustments or repairs as may, in the opinion of the Minister, be necessary for the proper measurement and regulation of any public water abstracted or conveyed by or flowing over such water works.

(b) Die Minister kan op enigiemand wat volgens sy oordeel uit enige addisionele werke kragtens paragraaf (a) deur hom gebou of veranderings of herstelwerk daarkragtens deur hom uitgevoer, voordeel trek of waarskynlik sal trek, so 'n deel van die koste van daardie werke, veranderings of herstelwerk verhaal as wat hy billik ag.

(5) Indien iemand versuim om aan 'n opdrag kragtens sub-artikel (3) of (4) te voldoen binne die tydperk in daardie opdrag vermeld of binne so 'n verdere tydperk as wat die Minister mag toelaat, kan die Minister die in daardie opdrag vermelde veranderings of herstelwerk laat aanbring of, al na die geval, die aldus vermelde addisionele waterwerke laat bou deur die departement, en die koste daarvan op die betrokke persoon verhaal.

(6) Enige permit kragtens hierdie artikel uitgereik, is verbonde aan die grond ten opsigte waarvan dit uitgereik word, en is solank dit van krag is, beskikbaar vir enige regsopvolger van die persoon aan wie dit uitgereik was.

(7) Iemand wat in stryd met die bepalings van hierdie artikel water wat in 'n natuurlike bedding of 'n openbare stroom bevat is of vloei, uitneem, opdam of opgaar, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met die strawwe in sub-artikel (1) van artikel honderd-en-sewentig voorgeskryf.

(8) Daar is 'n reg van appèl na die waterhof teen enige beslissing van die Minister in verband met 'n aansoek om 'n permit ingevolge paragraaf (b) van sub-artikel (1) en ook in verband met die kansellering van so 'n permit kragtens sub-artikel (3), en die waterhof kan in verband met so 'n appèl die beslissing gee wat hy goedvind.

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Staatswaterwerke
besproei te word.

63. (1) Die bepalings van hierdie artikel is—

(a) met ingang van die inwerkingtreding van hierdie Wet van toepassing ten opsigte van elke gebied ten opsigte waarvan daar by bedoelde inwerkingtreding 'n bepaling gemaak kragtens artikel *sewe bis* van die „Besproeiings- en Waterbewarings Wet, 1912” (Wet No. 8 van 1912), van krag is; en

(b) met ingang van 'n datum deur die Minister by kennisgewing in die *Staatskoerant* vasgestel te word, van toepassing ten opsigte van enige in daardie kennisgewing vermelde gebied wat kragtens artikel *nege-en-vyftig* tot 'n Staatswaterbeheergebied verklaar is,

en by sodanige toepassing ten opsigte van 'n gebied in paragraaf (a) bedoel, word 'n bepaling wat kragtens genoemde artikel *sewe bis* ten opsigte van 'n gebied gemaak heet te wees, geag 'n bepaling te wees wat behoorlik ooreenkomstig die bepalings van hierdie artikel gemaak is.

(2) Die Minister bepaal, behoudens die bepalings van sub-artikel (1), ten opsigte van elke gebied vermeld in 'n kennisgewing kragtens paragraaf (b) van sub-artikel (1) uitgevaardig, of algemeen of in enige besondere geval, en op die wyse en onderworpe aan die voorwaardes wat hy goedvind—

(a) die omvang of die maksimum omvang van die grond wat die deel uitmaak van elke stuk grond inbegrepe in daardie gebied, wat deur middel van water uit 'n Staatswaterwerk in daardie gebied besproei kan word, of die omvang of die maksimum omvang van die grond behorende aan 'n eienaar van grond in daardie gebied wat aldus besproei kan word; en

(b) die hoeveelheid water wat jaarliks voorsien kan word ten opsigte van elke morg grond soos aldus bepaal, en kan na goeddunke terselfdertyd of te eniger tyd daarna bepaal watter gedeelte van so 'n stuk grond of van die grond wat aan so 'n eienaar behoort, aldus besproei mag word.

(3) Die Minister kan van tyd tot tyd 'n bepaling kragtens hierdie artikel gemaak, wysig, of nuwe bepalings maak wanneer veranderings in die gebied waarop so 'n bepaling betrekking het of in die eiendomsreg van die grond in so 'n gebied plaasgevind het, of wanneer die beskikbare water volgens sy oordeel nie voldoende is om al die grond ten opsigte waarvan ooreenkomstig so 'n bepaling water voorsien moet word, behoorlik te besproei nie, of die omvang van die grond (wat deel van 'n stuk grond uitmaak of aan enige eienaar behoort) wat besproei mag word, tydelik verminder wanneer daar 'n tydelike tekort aan water is, of 'n bepaling wysig wat gemaak is ten opsigte van kragtens sub-paragraaf (v) van paragraaf (a) van sub-artikel (7) ingelyste grond wat na sy mening brak geword het of in gevaar staan om brak te word of andersins ongeskik is om besproei te word, sodat die gebruik van water daarop vir besproeiingsdoelendes onvoordelige gebruik of verspilling van sodanige water mag meebring of daartoe mag lei dat ander grond brak of andersins vir besproeiing ongeskik word.

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- (b) The Minister may recover from any person who in his opinion derives or is likely to derive any benefit from any additional works constructed or any adjustments or repairs executed by him under paragraph (a), such portion of the cost of such works, adjustments or repairs as he may consider equitable.

(5) If any person fails to comply with any direction under sub-section (3) or (4) within the time stipulated in that direction or within such further period as the Minister may allow, the Minister may cause the adjustments or repairs specified in that direction to be made or, as the case may be, the additional water works so specified to be constructed by the department and recover the cost thereof from the person concerned.

(6) Any permit issued under this section shall attach to the land in respect of which it is issued and shall while it remains of force be available to any successor in title of the person to whom it was issued.

(7) Any person who abstracts, impounds or stores water contained in or flowing in a natural channel or a public stream, in contravention of the provisions of this section, shall be guilty of an offence and liable on conviction to the penalties prescribed by sub-section (1) of section *one hundred and seventy*.

(8) There shall be a right of appeal to the water court against any decision of the Minister in connection with an application for a permit under paragraph (b) of sub-section (1) and also in connection with the cancellation of any such permit under sub-section (3), and the water court may make such order on any such appeal as it may deem fit.

63. (1) The provisions of this section shall—

- (a) as from the commencement of this Act, apply in respect of every area in respect of which there is in force at such commencement a determination made under section *seven bis* of the Irrigation and Conservation of Waters Act, 1912 (Act No. 8 of 1912); and
- (b) as from a date to be fixed by the Minister by notice in the *Gazette*, apply in respect of any area specified in that notice which has under section *fifty-nine* been declared to be a Government water control area,

Determination of areas to be irrigated from Government water works.

and for the purpose of such application in respect of an area referred to in paragraph (a), any determination purporting to have been made in respect of any area under the said section *seven bis* shall be deemed to be a determination duly made in accordance with the provisions of this section.

(2) Subject to the provisions of sub-section (1), the Minister shall, in respect of every area specified in a notice issued under paragraph (b) of sub-section (1), determine, in such manner and subject to such conditions as he may deem fit, either generally or in any particular case—

- (a) the extent or the maximum extent of the land comprised in every piece of land included in that area which may be irrigated by means of water from a Government water work in that area, or the extent or the maximum extent of the land belonging to any owner of land in that area which may be so irrigated; and
- (b) the quantity of water which may be supplied annually in respect of each morgen of land as so determined, and may, if he deem fit, at the same time or at any time thereafter determine the portion of any such piece of land or of the land belonging to any such owner which may be so irrigated.

(3) The Minister may from time to time vary any determination made under this section or make fresh determinations whenever alterations in the area to which any such determination relates or in the ownership of the land in any such area have taken place, or whenever in his opinion the available water is not sufficient for the proper irrigation of all the land in respect of which water is in terms of any such determination required to be supplied, or temporarily reduce the extent of the land (included in any piece of land or belonging to any owner) which may be irrigated whenever there is a temporary shortage of water, or vary any determination made in respect of any land scheduled under sub-paragraph (v) of paragraph (a) of sub-section (7) which in his opinion has become brak or is in danger of becoming brak or is otherwise unfit to be irrigated, so that the use of water thereon for irrigation purposes may result in the unbeneficial use or waste of such water or may cause other land to become brak or otherwise unfit to be irrigated.

(4) 'n Bepaling kragtens hierdie artikel gemaak of 'n wysiging van so 'n bepaling moet by kennisgewing in die *Staatskoerant* en in 'n nuusblad in omloop in die gebied waarop daardie bepaling betrekking het, bekendgemaak word, en is van krag vanaf die datum van publikasie van die kennisgewing.

(5) Wanneer in 'n gebied waarin 'n bepaling van krag is, 'n watertekort ondervind word of na verwagting ondervind sal word, kan die Minister, in plaas van die oppervlakte wat volgens daardie bepaling besproei mag word, te verminder, bedoelde bepaling tydelik opskort en enige water vir voorsiening en verdeling in daardie gebied beskikbaar, toewys op die wyse wat hy goedvind.

(6) Die Minister kan op aansoek van 'n eienaar van 'n stuk grond wat volgens sub-paragraaf (v) van paragraaf (a) van sub-artikel (7) ingelys is, en op die bedinge en voorwaardes wat die Minister mag vasstel, toelaat dat die water ten opsigte van daardie grond beskikbaar, op enige ander stuk grond in die betrokke gebied gebruik word.

(7) (a) Wanneer die Minister kragtens sub-artikel (2) 'n bepaling gemaak het, moet hy ten opsigte van die betrokke gebied 'n lys laat opstel waarin uiteengesit word—

(i) 'n beskrywing van elke stuk grond in daardie gebied ten opsigte waarvan water voorsien moet word;

(ii) die omvang van elke sodanige stuk grond;

(iii) besonderhede van die transportakte waarvolgens daardie stuk grond die laaste maal getransporteer was;

(iv) die naam van die eienaar van daardie stuk grond;

(v) die omvang van die grond wat deel uitmaak van daardie stuk grond, ten opsigte waarvan water uit genoemde waterwerk voorsien kan word of, al na die geval, die omvang van die grond, waarvan enigiemand die eienaar is, ten opsigte waarvan water aldus voorsien kan word; en

(vi) die omvang van enige grond in daardie gebied wat vir nedersettingsdoeleindes bestem is, maar nog nie as hoewes toegewys is nie.

(b) Tensy die Minister anders gelas, word 'n lys volgens hierdie sub-artikel opgestel, jaarliks hersien, en enige wysigings van tyd tot tyd aan enigeen van die in paragraaf (a) vermelde items aangebring, moet, behoudens die bepalings van artikel vier-en-sestig, by die hersiening in bedoelde lys weerspieël word.

(c) Enige lys wat voor die inwerkingtreding van hierdie Wet kragtens artikel *sewe bis* van die „Besproeiings- en Waterbewarings Wet, 1912”, opgestel heet te wees, word geag 'n lys te wees wat behoorlik ooreenkomstig die bepalings van hierdie artikel opgestel is.

(8) (a) Indien 'n vermeerdering plaasvind in die aantal individuele persone geregtig om water wat, ingevolge 'n bepaling kragtens hierdie artikel gemaak of geag gemaak te gewees het, ten opsigte van enige grond verskaf moet word, vir besproeiingsdoeleindes te gebruik, en die omvang van die grond wat deel van daardie grond uitmaak en ten opsigte waarvan in die geval van elkeen van daardie persone aldus water verskaf sou moes word indien al daardie persone geregtig was om van water voorsien te word ten opsigte van gelyke gedeeltes van die oppervlakte ten opsigte waarvan water aldus voorsien moet word, minder as twintig morg is, hou die stuk grond waarvan daardie grond deel uitmaak of, al na die geval, die totale oppervlakte van die grond in die betrokke Staatswaterbeheergebied wat aan die betrokke eienaar behoort, op om deel uit te maak van grond wat deur middel van water uit die betrokke Staatswaterwerk besproei kan word, en word dit uitgesluit van die lys volgens sub-artikel (7) opgestel ten opsigte van die gebied aldus besproei te word, tot tyd en wyl die Minister op aanbeveling van die sentrale landraad anders gelas.

(b) By die toepassing van paragraaf (a) word elke lid van 'n vennootskap of 'n liggaam, hetsy met regspersoonlikheid bekleed al dan nie, uitgesonderd 'n publieke maatskappy wat kragtens die Maatskappywet, 1926 (Wet No. 46 van 1926), as sodanig geregistreer is, wat geregtig is om water vir besproeiingsdoeleindes te gebruik, geag 'n individuele persoon te wees wat geregtig is om bedoelde water vir daardie doeleindes te gebruik.

(4) Any determination made under this section or any variation of such a determination shall be made known by notice in the *Gazette* and in a newspaper circulating in the area to which such determination relates, and shall be in force as from the date of publication of such notice.

(5) Whenever a water shortage is or is expected to be experienced in any area in which a determination is in force, the Minister may, instead of reducing the areas which may be irrigated in terms of such determination, temporarily suspend that determination and allocate any water available for supply and distribution in that area in such manner as he deems fit.

(6) The Minister may, upon the application of an owner of any piece of land scheduled under sub-paragraph (v) of paragraph (a) of sub-section (7), and on such terms and conditions as the Minister may stipulate, permit the use of the water available in respect of that land upon any other piece of land in the area affected.

(7) (a) Whenever the Minister has made a determination under sub-section (2), he shall cause to be prepared in respect of the area in question a schedule setting forth—

- (i) a description of every piece of land in that area in respect of which water is to be supplied;
- (ii) the extent of every such piece of land;
- (iii) particulars of the title deed according to which that piece of land was last transferred;
- (iv) the name of the owner of that piece of land;
- (v) the extent of the land forming part of that piece of land, in respect of which water may be supplied from the said water work or, as the case may be, the extent of the land of which any person is the owner, in respect of which water may be so supplied; and
- (vi) the extent of any land in that area intended for land settlement purposes but not yet allotted as holdings.

(b) Unless the Minister otherwise directs, a schedule prepared in accordance with this sub-section shall be revised annually and any alterations made from time to time in any of the items set forth in paragraph (a) shall, subject to the provisions of section *sixty-four*, be reflected in the said schedule at such revision.

(c) Any schedule purporting to have been prepared under section *seven bis* of the Irrigation and Conservation of Waters Act, 1912, prior to the commencement of this Act, shall be deemed to be a schedule duly prepared in accordance with the provisions of this section.

(8) (a) If there is an increase in the number of individual persons entitled to use for irrigation purposes any water required to be supplied in respect of any land in pursuance of a determination made or deemed to have been made under this section, and the extent of the land forming part of that land in respect of which water would be so required to be supplied in the case of each such person if all such persons were entitled to be supplied with water in respect of equal portions of the area in respect of which water is so required to be supplied, is less than twenty morgen, the piece of land of which such land forms a part, or the total extent of land in the Government water control area in question belonging to the owner concerned, as the case may be, shall, until such time as the Minister on the recommendation of the central land board otherwise directs, cease to form part of an area of land to be irrigated by means of water from the Government water work in question, and shall be excluded from the schedule prepared under sub-section (7) in respect of the area to be so irrigated.

(b) For the purposes of paragraph (a), every member of a partnership or any body, corporate or unincorporate, not being a public company registered as such under the Companies Act, 1926 (Act No. 46 of 1926), which is entitled to use water for irrigation purposes shall be deemed to be an individual person entitled to use such water for those purposes.

- (c) Die bepalings van hierdie artikel is ondanks anders-luidende bepalings in die Wet tot Reëling van die N'Jele-besproeiingsdistrik, 1946 (Wet No. 37 van 1946), vervat, *mutatis mutandis* van toepassing met betrekking tot grond wat op die in artikel veertien van daardie Wet bedoelde lys voorkom asof daardie grond ingevolge sub-paragraaf (v) van paragraaf (a) van sub-artikel (7) van hierdie artikel in 'n lys opgeneem was.
- (9) (a) Indien grond wat onder Kroongrondbrief uitgereik kragtens 'n wet op nedersetting besit word of te eniger tyd besit was, en ten opsigte waarvan volgens sub-paragraaf (v) van paragraaf (a) van sub-artikel (7) water uit 'n Staatswaterwerk voorsien kan word, vervreem word of vir 'n onbepaalde tydperk of vir 'n langer tydperk as tien jaar of vir tydperke (hetsy ononderbroke al dan nie) wat in die geheel 'n tydperk van tien jaar te bowe gaan, verhuur word aan 'n persoon wat—
- (i) 'n eienaar is;
 - (ii) 'n huurder is ingevolge 'n wet op nedersetting; of
 - (iii) 'n huurder is vir 'n tydperk of tydperke soos voormeld,
- van ander grond ten opsigte waarvan water uit dieselfde of 'n ander Staatswaterwerk aldus voorsien kan word, hou die aldus vervreemde of verhuurde grond vir die tydperk waarin dit deur bedoelde persoon besit word of aldus aan hom verhuur is, op om deel uit te maak van die gebied ten opsigte waarvan water aldus voorsien kan word, en word dit van die kragtens sub-artikel (7) vir daardie gebied opgestelde lys uitgesluit, tensy die Minister op aanbeveling van die sentrale landraad anders besluit, en indien iemand wat nie 'n eienaar of 'n in sub-paragraaf (ii) of (iii) bedoelde huurder van grond ten opsigte waarvan water uit Staatswaterwerke voorsien kan word, is nie, 'n eienaar of so 'n huurder word van meer as een sodanige stuk grond ten opsigte waarvan water uit enige sodanige werke aldus voorsien kan word, hou elkeen van daardie stukke grond waarvan hy daarna die eienaar of so 'n huurder bly, solank as wat hy die eienaar of so 'n huurder van meer as een van daardie stukke is op om deel van so 'n gebied uit te maak en word dit uit enige sodanige lys uitgesluit, tensy die Minister op aanbeveling van bedoelde raad anders gelas.
- (b) Die Minister kan by kennisgewing in die *Staatskoerant* verklaar dat die bepalings van paragraaf (a) ook van toepassing is waar ander grond as in daardie paragraaf bedoelde grond soos voormeld vervreem of verhuur word, hetsy algemeen of in 'n geval waar die oppervlakte van enige grond wat aldus aan 'n in daardie paragraaf bedoelde eienaar of huurder vervreem of verhuur word, en ten opsigte waarvan water uit 'n Staatswaterwerk voorsien kan word, tesame met die oppervlakte van enige ander grond ten opsigte waarvan uit dieselfde of 'n ander Staatswaterwerk aan daardie eienaar of huurder water voorsien kan word, groter is as wat deur die Minister bepaal en in die kennisgewing vermeld word.
- (c) 'n Kennisgewing kragtens paragraaf (b) kan ten opsigte van enige of alle Staatswaterbeheergebiede van toepassing wees.
- (10) Indien—
- (a) iemand wat geregtig is om water van 'n Staatswaterwerk vir landboudoeleindes te gebruik, permanent of vir 'n onbepaalde tydperk of 'n langer tydperk as tien jaar of vir tydperke (hetsy ononderbroke al dan nie) wat in die geheel langer as tien jaar is, die regte van iemand anders verkry op die gebruik van water van dieselfde of 'n ander Staatswaterwerk; of
 - (b) iemand wat nie aldus geregtig is nie, aldus die regte van twee of meer persone op die gebruik van water van Staatswaterwerke verkry,
- word al die aldus verkreeë regte opgeskort tot tyd en wyl die Minister op aanbeveling van die sentrale landraad anders gelas.
- (11) Kroongrond geleë in 'n gebied in paragraaf (a) of (b) van sub-artikel (1) bedoel, wat die Regering voornemens is om vir nedersettingsdoeleindes te gebruik, kan van 'n vir daardie gebied toepaslike bepaling uitgesluit word: Met dien verstande dat sodra enige gedeelte van sodanige grond kragtens die wette op nedersetting as 'n hoewe toegewys is, die bepalings

- (c) The provisions of this sub-section shall, notwithstanding anything to the contrary contained in the N'Jelele Irrigation District Adjustment Act, 1946 (Act No. 37 of 1946), *mutatis mutandis* apply in relation to any land falling within the schedule referred to in section *fourteen* of that Act as if such land were scheduled under sub-paragraph (v) of paragraph (a) of sub-section (7) of this section.

- (9) (a) If land which is or at any time has been held under a Crown grant issued in terms of any law relating to land settlement and in respect of which water may be supplied in terms of sub-paragraph (v) of paragraph (a) of sub-section (7) from any Government water work, is alienated or leased for an indefinite period or for a period exceeding ten years or for periods (whether uninterrupted or not) exceeding in the aggregate a period of ten years, to a person who is—

- (i) an owner;
- (ii) a lessee under any law relating to land settlement; or
- (iii) a lessee for a period or periods as aforesaid, of other land in respect of which water may be so supplied from the same or any other Government water work, the land so alienated or leased shall for the period during which it is held by or is so leased to that person cease to form part of the area in respect of which water may be so supplied and be excluded from the schedule prepared under sub-section (7) in respect of that area, unless the Minister on the recommendation of the central land board otherwise directs, and if a person who is not an owner or such a lessee as is referred to in sub-paragraph (ii) or (iii) of land in respect of which water may be supplied from Government water works, becomes an owner or such a lessee of more than one such piece of land in respect of which water may be so supplied from any such works, every such piece of land of which he thereafter remains the owner or such a lessee shall, so long as he is the owner or such a lessee of more than one such piece, cease to form part of any such area and be excluded from any such schedule, unless the Minister on the recommendation of the said board otherwise directs.

- (b) The Minister may by notice in the *Gazette* declare the provisions of paragraph (a) to be applicable also where other land than such land as is referred to in that paragraph is alienated or leased as aforesaid, either generally or in any case where the area of any land so alienated or leased to an owner or lessee mentioned in that paragraph, and in respect of which water may be supplied from any Government water work, together with the area of any other land in respect of which water may be supplied to such owner or lessee from the same or any other Government water work, exceeds an area determined by the Minister and specified in the notice.
- (c) A notice under paragraph (b) may apply in respect of any or all Government water control areas.

(10) If—

- (a) a person who is entitled to use for agricultural purposes water from any Government water work, acquires either permanently or for an indefinite period or for a period exceeding ten years or for periods (whether uninterrupted or not) exceeding in the aggregate a period of ten years, the rights of any other person to the use of water from the same or any other Government water work; or
- (b) a person who is not so entitled so acquires the rights of two or more persons to the use of water from Government water works,

all the rights so acquired shall be suspended until such time as the Minister on the recommendation of the central land board otherwise directs.

(11) Any Crown land situated in an area referred to in paragraph (a) or (b) of sub-section (1), which the Government proposes to use for the purposes of land settlement, may be excluded from any determination applicable to such area: Provided that, as soon as any portion of such land has under the laws relating to land settlement been allotted as a holding,

van hierdie artikel onmiddellik ten opsigte van bedoelde hoewe van toepassing word en 'n bepaling dienooreenkomstig gemaak moet word.

(12) Die bepalings van hierdie artikel is ondanks enigiets in die „Hartebeestpoort Besproeiingsskema (Krokodilrivier) Wet, 1914” (Wet No. 32 van 1914), die Marico-Bosveld Besproeiingsskema Wet, 1932 (Wet No. 10 van 1932), die Vaalrivier Uitbreidingskema Wet, 1934 (Wet No. 38 van 1934), die Wet op die Olifantsrivierbesproeiingswerke, 1943 (Wet No. 10 van 1943), die Wet op die Besproeiingskema Buffelspoort, 1948 (Wet No. 31 van 1948), of die Wet op die Besproeiingskema Bospoort, 1949 (Wet No. 24 van 1949), vervat, van toepassing ten opsigte van die Staatswaterbeheergebiede wat deur die Staatswaterwerke Hartebeestpoort, Marico-Bosveld, Vaalrivier Olifantsrivier, Buffelspoort en Bospoort, bedien word.

Inlystingsrade
vir Staatswater-
beheergebiede.

64. (1) Wanneer 'n lys volgens sub-artikel (7) van artikel *drie-en-sestig* opgestel of hersien moet word, stel die Minister 'n inlystingsraad aan wat bestaan uit drie amptenare van die departement deur hom benoem, van wie hy een as voorsitter van die raad aanwys.

(2) Sodra bedoelde raad so 'n lys of hersiene lys opgestel het, maak die direkteur by kennisgewing in die *Staatskoerant* en in 'n nuusblad in omloop in die gebied waarop bedoelde lys of hersiene lys betrekking het, bekend dat 'n afskrif van daardie lys of hersiene lys vanaf 'n datum in die kennisgewing vermeld te word, ter insae sal lê op die plek of plekke in die kennisgewing vermeld, en bedoelde lys of hersiene lys kan daarna vir 'n tydperk van veertien dae vanaf die datum in die kennisgewing gemeld, gedurende die gewone kantoorure op daardie plek of plekke ingesien word.

(3) Bedoelde kennisgewing moet vermeld dat eise vir byvoegings aan bedoelde lys of hersiene lys, en besware teen enige items wat daarin voorkom, op 'n daarin gemelde datum, tyd en plek aangehoor en daaroor beslis sal word op die wyse hieronder bepaal.

(4) Op die volgens sub-artikel (3) bekendgemaakte datum moet bedoelde raad alle sodanige eise en besware in die openbaar op die aldus bekendgemaakte plek of plekke aanhoor en daaroor beslis en uitspraak gee: Met dien verstande dat bedoelde raad die verhoor van tyd tot tyd na goeiddunke kan uitstel.

(5) Bedoelde raad moet—

- (a) die byvoegings aan genoemde lys of hersiene lys maak wat volgens sy oordeel geregverdig is;
- (b) enige item ten opsigte waarvan 'n beswaar tot genoeg van daardie raad bewys is, uit bedoelde lys of hersiene lys skrap of dit wysig;
- (c) enige fout wat in bedoelde lys of hersiene lys voorkom, verbeter, en enige aangeleentheid of besonderheid wat na sy mening daarby ingesluit behoort te word, daarin opneem.

(6) Bedoelde raad moet genoemde lys of hersiene lys, nadat hy dit as korrek gesertifiseer het, aan die Minister stuur en daardie lys of hersiene lys is, by goedkeuring deur die Minister, en vanaf 'n datum wat hy bepaal, die lys vir die gebied waarop dit betrekking het, en bly, behoudens die bepalings van artikel *drie-en-sestig*, van krag totdat dit by latere hersiening daarvan gewysig word.

Voorwaardes
opgelê by oordrag
van 'n waterreg
kan op titelbewys
van grond
aangeteken word.

65. Wanneer daar uit hoofde van 'n vergunning kragtens sub-artikel (6) van artikel *drie-en-sestig* deur die Minister verleen, ooreenkomstig paragraaf (b) van sub-artikel (7) van daardie artikel 'n verandering deur 'n in sub-artikel (1) van artikel *vier-en-sestig* bedoelde inlystingsraad aan 'n lys aangebring word, moet die registrateur van aktes in bevel van die registrasiekantoor van aktes waarin die titelbewys van grond wat deur die vergunning geraak word, geregistreer is, indien deur bedoelde inlystingsraad daartoe versoek, en ondanks die bepalings van enige ander wet, 'n notariële akte teen die titelbewys van daardie grond registreer waarin die voorwaardes vervat is wat bedoelde inlystingsraad of die Minister met betrekking tot genoemde vergunning of verandering mag opgelê het, en gepaste aantekeninge in sy registers maak.

Heffing van
belastings en
vorderings.

66. (1) (a) Die Minister kan van tyd tot tyd belastinge hef op grond wat deur middel van water uit 'n Staatswaterwerk of uit 'n openbare stroom of 'n natuurlike bedding in 'n Staatswaterbeheergebied uitgeneem, voorsien of gedistribueer, besproei kan word, of vorderings hef vir water aldus uitgeneem, voorsien of gedistribueer, of kan sodanige belastinge sowel as sodanige vorderings hef, en die belastinge of vorderings

the provisions of this section shall immediately apply in respect of such holding and a determination shall be made accordingly.

(12) The provisions of this section shall, notwithstanding anything contained in the Hartebeestpoort Irrigation Scheme (Crocodile River) Act, 1914 (Act No. 32 of 1914), the Marico-Bosveld Irrigation Scheme Act, 1932 (Act No. 10 of 1932), the Vaal River Development Scheme Act, 1934 (Act No. 38 of 1934), the Oliphants River Irrigation Works Act, 1943 (Act No. 10 of 1943), the Buffelspoort Irrigation Scheme Act, 1948 (Act No. 31 of 1948), or the Bospoort Irrigation Scheme Act, 1949 (Act No. 24 of 1949), apply in respect of the Government water control areas served by the Hartebeestpoort, Marico-Bosveld, Vaal River, Oliphants River, Buffelspoort and Bospoort Government water works.

64. (1) Whenever a schedule is required to be prepared or revised under sub-section (7) of section *sixty-three*, the Minister shall appoint a scheduling board consisting of three officers of the department nominated by him, one of whom he shall nominate as chairman of such board.

Scheduling boards for Government water control areas.

(2) As soon as such board has prepared any such schedule or revised schedule, the director shall make known by notice in the *Gazette* and in a newspaper circulating in the area to which such schedule or revised schedule relates that, as from a date to be stated in the notice, a copy of such schedule or revised schedule will lie for inspection at such place or places as are specified in the notice, and the said schedule or revised schedule shall thereupon be open to inspection at the said place or places during ordinary office hours for a period of fourteen days from the date stated in the notice.

(3) The said notice shall intimate that upon a date and at a time and place therein set forth, claims for additions to the said schedule or revised schedule and objections to any of the items appearing therein will be heard and determined in the manner hereinafter provided.

(4) On the date notified in terms of sub-section (3), the said board shall, at a public hearing at the place or places so notified, hear all such claims and objections and determine and adjudicate thereon: Provided that such board may in its discretion from time to time adjourn such hearing as it deems fit.

(5) The said board shall—

- (a) make such additions to the said schedule or revised schedule as may in its opinion be warranted;
- (b) delete from the said schedule or revised schedule or amend any item in respect of which an objection has been proved to the satisfaction of such board;
- (c) correct any error which may have been made in the said schedule or revised schedule and insert therein any matter or particular which in its opinion should be included therein.

(6) The said board shall, after certifying the said schedule or revised schedule as correct, transmit it to the Minister, and such schedule or revised schedule shall, upon approval by the Minister and as from a date to be determined by him, be the schedule for the area to which it relates and shall, subject to the provisions of section *sixty-three*, continue in force until altered at a subsequent revision thereof.

65. Whenever, as a result of a permission granted by the Minister under sub-section (6) of section *sixty-three*, an alteration is made to a schedule in terms of paragraph (b) of sub-section (7) of that section by a scheduling board referred to in sub-section (1) of section *sixty-four*, the registrar of deeds in charge of the deeds registry in which the title to the land affected by such permission is registered shall, if requested thereto by the said scheduling board and notwithstanding the provisions of any other law, register a notarial deed against the title deed of that land incorporating such conditions as the said scheduling board or the Minister may have imposed in regard to the said permission or alteration and make appropriate entries in his registers.

Conditions imposed on transfer of a water right may be noted on title deeds of land.

66. (1) (a) The Minister may from time to time assess rates on land which may be irrigated with water abstracted, supplied or distributed from a Government water work or from a public stream or natural channel in a Government water control area, or assess charges for water so abstracted, supplied or distributed, or assess both such rates and such charges, and may recover the rates or charges so assessed from the owners

Levying of rates and charges.

aldus gehê op die eienaars van bedoelde grond of, al na die geval, op die persone wat geregtig is om sodanige water te gebruik, verhaal.

- (b) Belastinge of vorderings kragtens paragraaf (a) gehê ten opsigte van water wat vir landboudoeleindes gebruik word, is 'n las op die grond ten opsigte waarvan dit gehê is, en iemand wat die eienaar van daardie grond word, is aanspreeklik vir enige sodanige belastinge of vorderings wat op die tydstip waarop hy die eienaar word, nie betaal is nie.

(2) Die Minister kan, benewens enige stappe wat hy ingevolge paragraaf (a) van sub-artikel (1) kan doen ter verhaal van enige belastinge of vorderings kragtens daardie paragraaf deur hom opgelê, wat nie op die vervalddag betaal is nie, die voorsiening van water uit die betrokke Staatswaterwerk aan die grond ten opsigte waarvan daardie water voorsien word of, na gelang van die geval, aan die persoon wat van water voorsien word, staak tot tyd en wyl bedoelde belastinge of vorderings, tesame met rente daarop teen sewe persent per jaar, betaal is, en die Minister is nie verplig om nadat die verskuldigde bedrag betaal is, enige water waarvan die voorsiening aldus gestaak is, te verskaf, of om vir verlies deur iemand as gevolg van die staking van die voorsiening van bedoelde water gely, vergoeding te betaal nie.

(3) Wanneer kragtens paragraaf (a) van sub-artikel (1) belastinge of vorderings ten opsigte van grond gehê is, moet die direkteur skriftelik dienoreenkomstig kennis gee aan die registrateur van aktes in bevel van die registrasiekantoor van aktes waarin die titelbewys van daardie grond geregistreer is, en daarop word geen oordrag van bedoelde grond deur daardie registrateur geregistreer nie totdat daar aan hom 'n sertifikaat oorgelê is wat deur 'n amptenaar van die departement onderteken is en waarin verklaar word dat alle belastinge of vorderings ten opsigte van daardie grond gehê, betaal is.

(4) Geen staking kragtens sub-artikel (2) van die voorsiening van water aan die grond of persoon daarin bedoel, onthef enigiemand van aanspreeklikheid ten opsigte van die tydperk van sodanige staking vir belastinge of vorderings wat kragtens hierdie artikel deur die Minister gehê is nie.

Minister kan
elektrisiteit
ontwikkel en
voorsien.

67. (1) Ondanks die bepalings van die Elektrisiteit Wet, 1922 (Wet No. 42 van 1922), maar behoudens die bepalings van die volgende sub-artikels van hierdie artikel, kan die Minister in verband met 'n Staatswaterwerk 'n onderneming vir die ontwikkeling van elektrisiteit oprig en aldus ontwikkelde elektrisiteit aan enigiemand voorsien teen die tariewe of vorderings wat hy van tyd tot tyd mag bepaal: Met dien verstande dat bedoelde tariewe en vorderings as 'n algemene beginsel, en vir sover dit doenlik is, op so 'n wyse vasgestel moet word dat die Minister in staat gestel word om van tyd tot tyd 'n bedrag te verhaal wat nie minder as die werklike koste van die ontwikkeling en voorsiening van sodanige elektrisiteit is nie.

(2) Wanneer die Minister 'n onderneming vir die ontwikkeling en voorsiening van elektrisiteit deur middel van 'n Staatswaterwerk wil oprig, of 'n bestaande onderneming vir sodanige ontwikkeling en voorsiening wil vergroot, moet hy die Elektrisiteitsvoorsieningskommissie ingestel deur artikel een van voormelde Elektrisiteit Wet, raadpleeg, en so 'n onderneming word nie deur die Minister opgerig nie indien bedoelde Kommissie hom in kennis stel dat die Kommissie die ontwikkeling en voorsiening van elektrisiteit deur middel van die betrokke Staatswaterwerk wil onderneem.

(3) Indien bedoelde Kommissie die Minister volgens sub-artikel (2) in kennis stel, moet hy in samewerking met die Minister die oprigting van die nodige uitrusting onderneem of kan die Minister sodanige oprigting ten behoeve van bedoelde Kommissie onderneem, en die Kommissie moet die onderneming daarna ooreenkomstig die bepalings van genoemde Elektrisiteit Wet bestuur.

(4) (a) Bedoelde Kommissie kan te eniger tyd nadat die Minister kragtens sub-artikel (1) 'n onderneming vir die ontwikkeling en voorsiening van elektrisiteit opgerig het of werke vir die doel opgerig of met sodanige werke begin het, en nadat hy ses maande vooruit skriftelik aan die Minister kennis gegee het, die oprigting van daardie werke of enige addisionele werke of die bestuur van die onderneming oorneem onderworpe aan die betaling deur bedoelde Kommissie aan die Regering van die waarde van die werke, masjinerie, materiaal en uitrusting wat in verband met bedoelde onderneming aan die Regering behoort of deur hom gebruik word.

of the said land or, as the case may be, from the persons entitled to use such water.

- (b) Rates or charges assessed in terms of paragraph (a) in respect of water used for agricultural purposes shall be a charge upon the land in respect of which they have been assessed, and any person who becomes the owner of any such land shall be liable for any such rates or charges which remain unpaid at the time when he becomes the owner.

(2) The Minister may, in addition to any action he may take in terms of paragraph (a) of sub-section (1) for the recovery of any rates or charges assessed by him under that paragraph and which have not been paid on due date, stop the supply of water from the Government water work in question to the land in respect of which such water is supplied or, as the case may be, to the person who is being supplied with water, until the said rates or charges, together with interest thereon at seven per cent. per annum, have been paid and the Minister shall not be obliged, after the amount due has been paid, to supply any water so stopped or to pay compensation for any loss sustained by any person consequent upon the stopping of the said supply of water.

(3) Whenever rates or charges have been assessed under paragraph (a) of sub-section (1) in respect of any land, the director shall in writing advise the registrar of deeds in charge of the deeds registry in which the title to such land is registered accordingly, and thereupon no transfer of such land shall be passed by that registrar until a certificate signed by an officer of the department has been produced to him stating that all rates or charges assessed on such land have been paid.

(4) No suspension under sub-section (2) of the supply of water to the land or person referred to therein shall relieve any person from any liability in respect of the period of such suspension for any rates or charges assessed by the Minister under this section.

67. (1) Notwithstanding the provisions of the Electricity Act, 1922 (Act No. 42 of 1922), but subject to the provisions of the succeeding sub-sections of this section, the Minister may, in connection with any Government water work, establish any undertaking for the generation of electricity and supply electricity so generated to any person at such rates or charges as he may from time to time determine: Provided that such rates and charges shall, as a general principle and as far as is practicable, be determined in such a manner as to enable the Minister to recover, from time to time, an amount not less than the actual cost of the generation and supply of such electricity.

Minister may generate and supply electricity.

(2) Whenever the Minister desires to establish an undertaking for the generation and supply of electricity by means of a Government water work or to enlarge an existing undertaking for such generation and supply, he shall consult the Electricity Supply Commission established under section one of the Electricity Act aforesaid, and no such undertaking shall be established by the Minister if that Commission notifies him that it desires to undertake the generation and supply of electricity by means of the Government water work in question.

(3) If the said Commission notifies the Minister in terms of sub-section (2), it shall, in collaboration with the Minister, undertake the construction of the necessary plant, or the Minister may undertake such construction on behalf of the said Commission, and the Commission shall thereafter work the undertaking in accordance with the provisions of the said Electricity Act.

(4) (a) The said Commission may, at any time after the Minister has under sub-section (1) established any undertaking for the generation and supply of electricity or has constructed or commenced to construct any works for the purpose, and after six months written notice to the Minister, take over the construction of such works or any additional works or the working of the undertaking, subject to the payment by the said Commission to the Government of the value of the works, machinery, materials and plant belonging to or used by the Government in respect of the said undertaking.

- (b) Die bepalings van paragrawe (b) en (c) van sub-artikel (1) en sub-artikel (2) van artikel *een-en-dertig* en van artikel *vier-en-dertig* van voormelde Elektrisiteit Wet is *mutatis mutandis* van toepassing vir sover dit sodanige betaling en die oorname van genoemde onderneming betref.

(5) Enige uitrusting vir die ontwikkeling van elektrisiteit deur die Minister opgerig of gebou, moet in ooreenstemming wees met die regulasies kragtens voormelde Elektrisiteit Wet uitgevaardig, en moet voldoen aan enige voorskrifte wat deur die Elektrisiteitsbeheerraad, ingestel deur artikel *agtien* van genoemde Wet, gemaak mag word ten einde koördinasie met ander bestaande of met toekomstige ondernemings vir die voorsiening van elektrisiteit te vergemaklik, en vir daardie doel moet die Minister voordat hy voormelde uitrusting oprig of bou, met genoemde Raad oorleg pleeg.

(6) Die Minister mag nie meer as vyfmiljoen elektrisiteits-eenhede per jaar wat deur middel van 'n enkele toestel ontwikkel is, voorsien nie, behalwe op gesag van 'n lisensie deur genoemde Raad uitgereik.

(7) Die Minister mag nie elektrisiteit aan iemand binne die regsgebied van 'n munisipale raad, gemeenteraad, stadsraad, dorpsraad, dorpsbestuursraad, dorpsbestuur, plaaslike raad of gesondheidsraad voorsien, of transmissie- of distribusiegeleidings vir sodanige voorsiening deur of oor enige gedeelte van so 'n gebied aanlê nie, behalwe met toestemming van die betrokke liggaam: Met dien verstande dat waar sodanige toestemming weerhou word, die saak deur die Elektrisiteitsbeheerraad beslis word na 'n openbare verhoor waarvan minstens veertien dae vooruit deur genoemde Raad aan die partye kennis gegee word.

Adviserende komitees.

68. (1) Die Minister kan ten opsigte van enige Staatswaterwerk of enige gebied wat ingevolge artikel *nege-en-vyf* tot 'n Staatswaterbeheergebied of 'n opvangbeheergebied verklaar is, of enige opvanggebied of -gebiede, 'n adviserende komitee aanstel wat bestaan uit soveel lede as wat die Minister in elke geval van tyd tot tyd mag vasstel, om hom van advies te dien oor sake in verband met die bewaring, opgaring, gebruik, beheer, voorsiening of distribusie van watervoorrade en water, of enige ander saak wat hy van tyd tot tyd na bedoelde komitee mag verwys.

(2) (a) Die helfte van die lede van 'n adviserende komitee word gekies uit persone genomineer op die wyse wat in die geval van elke besondere komitee by regulasie voorgeskryf word.

(b) Die beamppte van die departement in bevel van 'n Staatswaterwerk is *ex officio* lid van die adviserende komitee ten opsigte van daardie waterwerk ingestel en is die voorsitter van daardie komitee.

(c) Die voorsitter van 'n adviserende komitee, behalwe 'n komitee ingestel ten opsigte van 'n Staatswaterwerk, word uit die lede van daardie komitee deur die Minister aangestel.

(3) Die lede van 'n adviserende komitee beklee hul amp vir so 'n tydperk, maar hoogstens drie jaar, as wat die Minister by hul verkiesing of aanstelling mag vasstel.

(4) 'n Toevallige vakature in 'n adviserende komitee word gevul deur die aanstelling van 'n ander lid vir die onverstreke gedeelte van die tydperk waarvoor die lid wie se amp vakant geword het, aangestel was.

(5) Aan die lede van 'n adviserende komitee wat nie in die voltydse diens van die Staat is nie, kan deur die departement die by regulasie voorgeskrewe toelaes betaal word.

(6) 'n Amptenaar van die departement deur die direkteur daartoe aangewys, kan enige vergadering van 'n adviserende komitee bywoon, maar nie aldaar 'n stem uitbring nie, en kan so 'n komitee met advies in verband met enige saak onder bespreking of oorweging deur daardie komitee bystaan.

Oordrag van beheer oor of vervreemding van Staatswaterwerke.

69. (1) Die Minister kan—

(a) te eniger tyd vir 'n tydperk en op die bedinge en voorwaardes wat hy goedvind, enigen van of al die bevoegdhede kragtens hierdie Wet of 'n ander wet aan hom verleen in verband met die beheer, werking, bestuur of instandhouding van 'n Staatswaterwerk of 'n elektrisiteitsonderneming in artikel *sewe-en-sestig* bedoel, of in verband met die beheer, voorsiening en distribusie van water van bedoelde Staatswaterwerk of van elektrisiteit deur middel van bedoelde onderneming, aan 'n plaaslike bestuur, besproeiingsraad of ander statutêre liggaam of 'n Staatsdeparte-

- (b) For the purpose of such payment and the taking over of the said undertaking, the provisions of paragraphs (b) and (c) of sub-section (1) and sub-section (2) of section *thirty-one* and of section *thirty-four* of the Electricity Act aforesaid shall *mutatis mutandis* apply.

(5) Any plant for the generation of electricity constructed or erected by the Minister shall be in accordance with the regulations made under the aforesaid Electricity Act and shall comply with any requirements of the Electricity Control Board, constituted in terms of section *eighteen* of the said Act, which may be made for the purpose of facilitating co-ordination with other existing or with future undertakings for the supply of electricity, and for such purpose the Minister shall, before constructing or erecting any such plant as aforesaid, consult the said Board.

(6) The Minister shall not supply electricity generated by any one plant exceeding five million units per annum except on the authority of a licence issued by the said Board.

(7) The Minister shall not supply electricity to any person within the area of jurisdiction of any municipal council, borough council, town council, village council, village management board, town board, local board or health board, or construct transmission or distribution lines for such supply through or over any portion of such area, except with the consent of the body concerned: Provided that if such consent is withheld, the matter shall be decided by the Electricity Control Board after a public hearing of which not less than fourteen days' notice shall be given to the parties by the said Board.

68. (1) The Minister may in respect of any Government water work or any area which has under section *fifty-nine* been declared to be a Government water control area or a catchment control area, or any catchment area or areas, appoint an advisory committee consisting of such number of members as the Minister may in each case from time to time determine, to advise him on matters connected with the preservation, conservation, utilization, control, supply or distribution of water resources and water, or any other matter which he may from time to time refer to such committee. Advisory committees.

(2) (a) One-half of the members of an advisory committee shall be selected from amongst persons nominated in such manner as may in respect of each particular committee be prescribed by regulation.

(b) The officer of the department in charge of any Government water work shall be an *ex officio* member of the advisory committee constituted in respect of that water work, and shall be the chairman of that committee.

(c) The chairman of an advisory committee, other than a committee constituted in respect of a Government water work, shall be appointed by the Minister from amongst the members of such committee.

(3) The members of an advisory committee shall hold office for such period not exceeding three years as may be determined by the Minister upon their election or appointment.

(4) A casual vacancy on an advisory committee shall be filled by the appointment of another member for the unexpired portion of the period for which the member whose office has become vacant was appointed.

(5) The members of an advisory committee who are not in the full-time service of the State may be paid such allowances by the department as may be prescribed by regulation.

(6) Any officer of the department nominated thereto by the director shall be entitled to attend but not to vote at any meeting of an advisory committee and to assist such committee with his advice upon any matter relating to any question under discussion or consideration by such committee.

69. (1) The Minister may—

- (a) at any time and for such period and on such terms and conditions as he may deem fit, delegate all or any of the powers of control, operation, administration or maintenance of any Government water work or any electricity undertaking referred to in section *sixty-seven*, or of control, supply and distribution of water from such Government water work or of electricity by means of such undertaking, assigned to him under this Act or any other law, to any local authority, irrigation board

Delegation of control or alienation of Government water works.

ment, met inbegrip van die Suid-Afrikaanse Spoorweg- en Hawensadministrasie, of 'n provinsiale administrasie oordra;

- (b) te eniger tyd, indien by besluit van beide Huise van die Parlement daartoe gemagtig, en op die voorwaardes in bedoelde besluit uiteengesit, 'n Staatswaterwerk aan 'n plaaslike bestuur of so 'n raad, liggaam, departement of administrasie verkoop of andersins van die hand sit.

(2) Die bepalinge van hierdie Wet of enige ander wet met betrekking tot Staatswaterwerke bly, behalwe vir sover anders bepaal in enige voorwaardes uiteengesit in 'n besluit in paragraaf (b) van sub-artikel (1) bedoel, van toepassing met betrekking tot 'n Staatswaterwerk wat kragtens daardie paragraaf verkoop of van die hand gesit is, asof die verkoping of van die hand sitting nie plaasgevind het nie, en vir daardie doel word 'n verwysing in so 'n bepaling na die Minister uitgelê as 'n verwysing na die plaaslike bestuur, raad, liggaam, departement of administrasie waaraan bedoelde waterwerk verkoop of van die hand gesit is.

Minister kan regulasies in verband met Staatswaterwerke uitvaardig.

70. Die Minister kan ten opsigte van 'n Staatswaterwerk, Staatswaterbeheergebied of opvangbeheergebied regulasies uitvaardig betreffende—

- (a) die wyse van reëling van die vloei van water na, die uitneem of distribusie van water uit, en die gebruik van water in of uit enige gedeelte van sodanige werk of gebied;
- (b) die beskerming of bewaring van die werk of gebied of enige gedeelte daarvan;
- (c) die beheer van en toegang tot die werk of enige gebied wat as gevolg van die bou van die werk oorstroom is of staan te word, met inbegrip van die gebruik van bote van watter aard ook al in of op so 'n oorstroomde gebied;
- (d) die uitreiking van permitte onder artikel twee-en-sestig en die aantekening en registrasie daarvan en van die besonderhede van enige waterwerke waarvan volgens paragraaf (a) van sub-artikel (1) of paragraaf (c) van sub-artikel (2) van daardie artikel aan die direkteur kennis gegee is;
- (e) die metode van heffing en verhaal van belastinge of vorderings ingevolge artikel een-en-sestig, ses-en-sestig of sewe-en-sestig;
- (f) die wyse waarop die in paragraaf (a) van sub-artikel (2) van artikel agt-en-sestig bedoelde persone genomineer moet word;
- (g) die byeenroeping en bestuur van vergaderings van 'n in artikel agt-en-sestig bedoelde adviserende komitee, en die kworum vir en prosedure op sodanige vergaderings;
- (h) die toelaes aan lede van so 'n adviserende komitee betaalbaar;
- (i) die voorsiening en distribusie van elektrisiteit ingevolge artikel sewe-en-sestig; en
- (j) in die algemeen enige ander aangeleentheid wat hy nodig of dienstig ag om voor te skryf ten einde die oogmerke van hierdie Hoofstuk te verwesenlik.

HOOFSTUK VI.

BESPROEINGSRADE.

Versoekskrif om instelling van besproeiingsdistrik.

71. (1) Enige drie of meer eienaars van grond wat oewergrond aan 'n openbare stroom of 'n takstroom daarvan is, wat saam minstens een-tiende van die grond besit wat deur middel van water uit daardie stroom of takstroom besproei word of voorgestel word om besproei te word, kan indien hul dit wenslik ag dat—

- (a) 'n gekombineerde stelsel van waterwerke gebou behoort te word vir die uitneem of opdam en opgaar van enige water van daardie stroom of takstroom vir die besproeiing van bedoelde grond; of
- (b) bestaande waterwerke wat vir die besproeiing van bedoelde grond en die distribusie van water gebruik word, spesiaal beheer behoort te word, of dat sodanige werke uitgebrei of vergroot of andersins verbeter behoort te word; of
- (c) die gebruik van die water van bedoelde openbare stroom of takstroom spesiaal beheer behoort te word; of
- (d) daar 'n gesamentlike dreineringsstelsel vir bedoelde grond behoort te wees,

aan die Minister 'n versoekskrif rig waarin versoek word dat die gebied wat bedoelde grond behels, of so 'n groter gebied as

or other statutory body or any department of State, including the South African Railways and Harbours Administration, or any provincial administration;

- (b) at any time, if authorized thereto by resolution of both Houses of Parliament and on such conditions as may be set forth in such resolution, sell or otherwise dispose of any Government water work to any local authority, or any such board, body, department or administration.

(2) The provisions of this Act or any other law relating to Government water works shall, save as otherwise provided in any conditions set forth in any resolution referred to in paragraph (b) of sub-section (1), continue to apply in relation to a Government water work which has been sold or disposed of under that paragraph, as if such sale or disposal had not taken place, and for that purpose any reference in any such provision to the Minister shall be construed as a reference to the local authority, board, body, department or administration to which such water work has been sold or disposed of.

70. The Minister may, in respect of any Government water work, Government water control area or catchment control area make regulations relating to—

Minister may make regulations in connection with Government water works.

- (a) the manner of regulating the flow of water into, the abstraction or distribution of water from, and the use of water in or from any portion of such work or area;
- (b) the protection or preservation of the work or area or any part thereof;
- (c) the control of and access to the work or any area submerged or to be submerged as a result of the construction of the work, including the use of boats of whatever description in or upon any such submerged area;
- (d) the issue of permits under section *sixty-two* and the recording and registration thereof and of the particulars of any water works notified to the director in terms of paragraph (a) of sub-section (1) or paragraph (c) of sub-section (2) of that section;
- (e) the method of assessing and recovering rates or charges under section *sixty-one*, *sixty-six* or *sixty-seven*;
- (f) the manner in which the persons referred to in paragraph (a) of sub-section (2) of section *sixty-eight* shall be nominated;
- (g) the calling and conduct of meetings of an advisory committee referred to in section *sixty-eight*, and the quorum for and procedure at such meetings;
- (h) the allowances payable to members of any such advisory committee;
- (i) the supply and distribution of electricity under section *sixty-seven*; and
- (j) generally any other matters which he considers it necessary or expedient to prescribe in order that the objects of this Chapter may be achieved.

CHAPTER VI.

IRRIGATION BOARDS.

71. (1) Any three or more owners of land riparian to a public stream or any tributary thereof, who together own not less than one-tenth of the land irrigated or proposed to be irrigated by means of water from that stream or tributary, may, if they consider it desirable that—

Petition for constitution of irrigation district.

- (a) a combined system of water works should be constructed for the abstraction or the impoundment and storage of any water of that stream or tributary for the purpose of irrigating the said land; or
- (b) any existing water works used for the irrigation of such land and the distribution of water should be specially controlled, or that such works should be extended or enlarged or otherwise improved; or
- (c) the use of the water of the said public stream or tributary should be specially controlled; or
- (d) there should be a combined system of drainage for such land,

transmit to the Minister a petition requesting that the area comprising such land or such larger area as may be specified

wat in die versoekskrif vermeld word, tot 'n besproeiingsdistrik verklaar word, hetsy bedoelde gebied reeds deel van 'n bestaande besproeiingsdistrik uitmaak, al dan nie.

(2) So 'n versoekskrif moet vermeld—

- (a) die grense en benaderde omvang van die gebied voorgestel om in die besproeiingsdistrik ingesluit te word;
- (b) die benaderde omvang van die grond binne daardie gebied wat besproei word en wat voorgestel word om besproei te word;
- (c) die doeleindes in verband waarmee voorgestel word om die distrik in te stel; en
- (d) die aard en soort waterwerke wat voorgestel word om gebou te word.

Onderzoek van
onderwerp van
versoekskrif.

72. (1) Indien die Minister daarvan oortuig is dat die ondertekenaars van 'n versoekskrif ooreenkomstig artikel *een-en-sewentig* aan hom gestuur, die eienaars is van minstens een-tiende van die grond besproei of voorgestel om besproei te word binne die gebied waarop daardie versoekskrif betrekking het, en die versoekskrif gesteun word deur die getuienis wat die Minister mag verlang, moet hy 'n opsomming van die versoekskrif in die *Staatskoerant* en in 'n nuusblad in omloop in daardie gebied laat publiseer en so 'n ondersoek omtrent die onderwerp van die versoekskrif laat instel as wat hy goedvind.

(2) (a) Vir die doeleindes van so 'n ondersoek kan die Minister na goëddunke reëlins laat tref vir die hou van 'n openbare vergadering van persone wat by die onderwerp van bedoelde versoekskrif belang het, ten einde die sienswyse van daardie persone te verneem.

(b) So 'n vergadering word gehou onder voorsitterskap van 'n amptenaar van die departement, en kennis moet van die datum, tyd en plek daarvan gegee word deur afkondiging in die *Staatskoerant* en 'n nuusblad in omloop in die betrokke gebied minstens drie weke voor die datum waarop die vergadering gehou word.

(3) (a) Na afloop van so 'n ondersoek kan die Minister na goëddunke by die Goewerneur-generaal aanbeveel dat die gebied in die betrokke versoekskrif vermeld of so 'n ander gebied as wat hy mag bepaal, tot 'n besproeiingsdistrik verklaar word, indien hy oortuig is—

(i) dat minstens twee-derdes van die eienaars van grond geleë binne die gebied aldus vermeld of binne sodanige ander gebied, al na die geval, wat tesame minstens twee-derdes van die grond besit wat in daardie gebied besproei word en voorgestel word om besproei te word; en

(ii) waar 'n gebied wat deur 'n takstroom bedien word, in enige sodanige gebied ingesluit moet word, dat minstens twee-derdes van die eienaars van grond wat aldus bedien word, wat tesame minstens twee-derdes van die grond in die betrokke gebied besit wat uit sodanige stroom besproei word en voorgestel word om besproei te word,

ten gunste van die verklaring van so 'n besproeiingsdistrik is.

(b) 'n Aanbeveling kragtens hierdie artikel kan 'n aanbeveling insluit dat die gebied wat tot 'n besproeiingsdistrik verklaar moet word, in sub-distrikte verdeel word soos in die aanbeveling aangedui.

Instelling van
besproeiings-
distrik andersins
as op petisie van
eienaars.

73. Die Minister kan te eniger tyd uit eie beweging by die Goewerneur-generaal aanbeveel dat 'n gebied wat kragtens artikel *nege-en-vyftig* tot 'n Staatswaterbeheergebied of 'n opvangbeheergebied verklaar is, of enige gedeelte van so 'n gebied, of enige ander gebied (wat so 'n Staatswaterbeheergebied of opvangbeheergebied of 'n gedeelte van so 'n gebied kan insluit) tot 'n besproeiingsdistrik verklaar word.

Verklaring van
'n besproeiings-
distrik.

74. (1) Die Goewerneur-generaal kan, op aanbeveling van die Minister kragtens paragraaf (a) van sub-artikel (3) van artikel *twee-en-sewentig* of artikel *drie-en-sewentig*, by proklamasie in die *Staatskoerant* die gebied in daardie aanbeveling vermeld tot 'n besproeiingsdistrik verklaar, en kan in dieselfde of 'n latere proklamasie in die *Staatskoerant* daardie distrik in sub-distrikte indeel en die gebied van elke sodanige sub-distrik omskryf, en te eniger tyd by dergelyke proklamasie so 'n indeling intrek of dit wysig soos hy goedvind.

(2) 'n Proklamasie kragtens sub-artikel (1) moet die naam vermeld waaronder die betrokke besproeiingsdistrik bekend sal staan.

in the petition, be declared an irrigation district, whether or not such area is already comprised within an existing irrigation district.

(2) Such petition shall state—

- (a) the boundaries and approximate extent of the area proposed to be included in the irrigation district;
- (b) the approximate extent of the land within such area which is irrigated and which it is proposed to irrigate;
- (c) the purposes in connection with which it is proposed to constitute the district; and
- (d) the nature and class of any water works which it is proposed to construct.

72. (1) If the Minister is satisfied that the persons who have signed a petition transmitted to him under section *seventy-one* are owners of not less than one-tenth of the land irrigated or proposed to be irrigated within the area to which such petition relates, and the petition is supported by such evidence as the Minister may require, he shall cause a summary of the petition to be published in the *Gazette* and in a newspaper circulating in that area and cause such enquiry to be made into the subject matter of the petition as he deems fit.

Enquiry into subject matter of petition.

(2) (a) For the purpose of any such enquiry the Minister may, if he deem fit, cause arrangements to be made for the holding of a public meeting of persons interested in the subject of such petition, for the purpose of ascertaining the views of such persons.

(b) Any such meeting shall be presided over by an officer of the department and notice of the time, date and place thereof shall be published in the *Gazette* and a newspaper circulating in the area in question not less than three weeks before the date on which the meeting is held.

(3) (a) After completion of any such enquiry the Minister may in his discretion recommend to the Governor-General that the area specified in the petition in question or such other area as he may determine be declared an irrigation district, if he is satisfied—

(i) that not less than two-thirds of the owners of land situated within the area so specified or within such other area, as the case may be, who together own not less than two-thirds of the land irrigated and proposed to be irrigated within such area; and

(ii) where an area served by a tributary stream is to be included in any such area, that not less than two-thirds of the owners of land so served, who together own not less than two-thirds of the land irrigated and proposed to be irrigated from such stream, in the area in question,

are in favour of the declaration of such irrigation district.

(b) A recommendation under this section may include a recommendation that the area to be declared an irrigation district, be divided into sub-districts as specified in the recommendation.

73. The Minister may at any time of his own motion recommend to the Governor-General that any area which has under section *fifty-nine* been declared to be a Government water control area or a catchment control area or any portion of any such area, or any other area (which may include any such Government water control area or catchment control area or any portion of any such area) be declared to be an irrigation district.

Constitution of irrigation district otherwise than on petition of owners.

74. (1) The Governor-General may, upon the recommendation of the Minister in terms of paragraph (a) of sub-section (3) of section *seventy-two* or section *seventy-three*, by proclamation in the *Gazette* declare the area specified in such recommendation to be an irrigation district, and may by the same or by a subsequent proclamation in the *Gazette* divide any such district into sub-districts and define the area of each such sub-district, and at any time by like proclamation withdraw any such sub-division or amend it as he may deem fit.

Declaration of an irrigation district.

(2) Any proclamation under sub-section (1) shall specify the name by which the irrigation district in question shall be known

Uitwerking van verklaring van Staatswater-beheergebied of opvangbeheergebied tot besproeiings-distrik.

75. (1) 'n Gebied wat kragtens artikel *nege-en-vyftig* tot 'n Staatswaterbeheergebied of opvangbeheergebied verklaar is of wat deel van so 'n gebied uitmaak, hou nie op om so 'n gebied te wees of deel daarvan uit te maak op grond dat dit kragtens artikel *vier-en-sewentig* tot 'n besproeiingsdistrik verklaar of in so 'n distrik ingesluit is nie.

(2) (a) Die Minister kan aan die besproeiingsraad ingestel ten opsigte van 'n besproeiingsdistrik wat uit 'n gebied wat soos voormeld tot 'n opvangbeheergebied verklaar is, of 'n deel van so 'n gebied, bestaan, of dit insluit, enige van die bevoegdhede of al die bevoegdhede uit hoofde van die bepalings van artikel *een-en-sestig* met betrekking tot daardie opvangbeheergebied of daardie deel daarvan aan hom verleen, toewys: Met dien verstande dat enige onkoste deur die raad aangegaan met die uitvoer van enige werk wat die raad nodig ag om uit te voer in verband met enigeen van die doeleindes in sub-artikel (2) van artikel *nege-en-vyftig* uiteengesit, deur die raad gedra word.

(b) Vir die doeleindes van uitoefening deur 'n besproeiingsraad van bevoegdhede kragtens paragraaf (a) aan hom toegewys, word enige verwysing in die ter sake dienende bepalings van gemelde artikel *een-en-sestig* na die Minister of die direkteur as 'n verwysing na bedoelde raad uitgelê.

Herreëling van besproeiings-distrikte.

76. (1) Die Goewerneur-generaal kan, op 'n aanbeveling deur die Minister gemaak na so 'n ondersoek as wat die Minister nodig ag, by proklamasie in die *Staatskoerant*—

(a) 'n besproeiingsdistrik of 'n gedeelte daarvan met 'n ander aanliggende besproeiingsdistrik of 'n gedeelte van so 'n ander besproeiingsdistrik saamsmelt; of

(b) enige gedeelte van 'n besproeiingsdistrik as 'n besproeiingsdistrik instel en sodanige gedeelte afskei van die besproeiingsdistrik waarvan dit 'n deel uitmaak; of

(c) enige gebied uit 'n bestaande besproeiingsdistrik uitsluit of enige addisionele gebied daarby insluit.

(2) Geen aanbeveling word ingevolge sub-artikel (1) deur die Minister gemaak nie, tensy hy oortuig is—

(a) in die geval van 'n aanbeveling wat nie vir die insluiting van addisionele grond in 'n besproeiingsdistrik voorsiening maak nie, dat eienaars wat 'n meerderheid van stemme volgens die jongste kieserslys van daardie distrik het en wat geregtig sou wees om by 'n verkiesing van lede van die besproeiingsraad van bedoelde distrik te stem indien 'n verkiesing dan gehou sou word, ten gunste daarvan is;

(b) in die geval van 'n aanbeveling wat wel vir die insluiting van addisionele grond in so 'n distrik voorsiening maak, dat minstens twee-derdes van die eienaars van die addisionele grond voorgestel om ingesluit te word, wat minstens twee-derdes van daardie grond wat besproei word en voorgestel word om besproei te word, besit, en eienaars met 'n meerderheid van stemme volgens die jongste kieserslys van daardie distrik wat geregtig sou wees om by 'n verkiesing van lede van die besproeiingsraad van daardie distrik te stem, indien 'n verkiesing dan gehou sou word, ten gunste daarvan is;

(c) in die geval van 'n aanbeveling wat voorsiening maak vir die samesmelting van 'n besproeiingsdistrik of 'n gedeelte daarvan met 'n ander besproeiingsdistrik of 'n gedeelte daarvan, of vir die omskepping van 'n gedeelte van 'n besproeiingsdistrik tot 'n besproeiingsdistrik en die afskeiding van daardie gedeelte van die besproeiingsdistrik waarvan dit deel uitmaak, dat die vereistes uiteengesit in sub-paragrafe (i) en (ii) van paragraaf (a) van sub-artikel (3) van artikel *twee-en-sewentig* bestaan ten opsigte van beide die betrokke distrikte of, al na die geval, ten opsigte van sowel die gebied voorgestel om van 'n distrik afgeskei te word as die restant van daardie distrik,

of tensy die Minister van oordeel is dat die betrokke eienaars in 'n besondere geval hul goedkeuring onredelikerwys weerhou het of dat dit wenslik is om die bepalings van die voorstel in so 'n aanbeveling vervat, uit te voer.

(3) 'n Proklamasie kragtens sub-artikel (1) uitgevaardig, moet die naam aandui waaronder 'n daarby ingestelde besproeiingsdistrik, met inbegrip van so 'n distrik geskep deur uit 'n bestaande distrik 'n gebied wat deel daarvan uitmaak, uit te sluit, of deur 'n addisionele gebied in 'n bestaande distrik in te sluit, bekend sal staan.

75. (1) An area which has been declared to be a Government water control area or a catchment control area under section *fifty-nine* or which forms part of any such area, shall not cease to be or to form part of such area by reason of the fact that it has been declared to be an irrigation district under section *seventy-four* or has been included in any such district.

Effect of declaration of Government water control area or catchment control area to be an irrigation district.

(2) (a) The Minister may assign to the irrigation board established in respect of an irrigation district which comprises or includes an area declared to be a catchment control area as aforesaid, or any portion of such an area, any or all of the powers vested in him in relation to such catchment control area or such portion thereof by virtue of the provisions of section *sixty-one*: Provided that any expenditure incurred by the board in carrying out any work which it may deem necessary to carry out in connection with any of the purposes set out in sub-section (2) of section *fifty-nine* shall be met by the board.

(b) For the purpose of the exercise by an irrigation board of any powers assigned to it under paragraph (a), any reference in the relevant provisions of the said section *sixty-one* to the Minister or the director shall be construed as a reference to the said board.

76. (1) The Governor-General may upon a recommendation of the Minister, made after such enquiry as the Minister may consider necessary, by proclamation in the *Gazette*—

Reconstitution of irrigation districts.

(a) combine any irrigation district or any portion thereof with another irrigation district to which it is contiguous or any portion of such other irrigation district; or

(b) constitute any portion of an irrigation district as an irrigation district and sever such portion from the irrigation district of which it forms a part; or

(c) exclude any area from an existing irrigation district or include any additional area therein.

(2) No recommendation shall be made by the Minister under sub-section (1) unless he is satisfied—

(a) in the case of a recommendation which does not provide for the inclusion of additional land within an irrigation district, that owners representing a majority of votes, according to the latest voters' list of the said district, who would be qualified to vote at an election of members of the irrigation board of such district if an election were then held, are in favour thereof;

(b) in the case of a recommendation which does provide for the inclusion of additional land within any such district, that not less than two-thirds of the owners of the additional land proposed to be included, who own not less than two-thirds of such land irrigated and proposed to be irrigated, and owners representing a majority of votes according to the latest voters' list of such district who would be qualified to vote at an election of members of the irrigation board of such district if an election were then held, are in favour thereof;

(c) in the case of a recommendation which provides for an irrigation district or any portion thereof to be combined with another irrigation district or any portion thereof or for the constitution of any portion of an irrigation district as an irrigation district and the severance of such portion from the irrigation district of which it forms a part, that the requirements specified in sub-paragraphs (i) and (ii) of paragraph (a) of sub-section (3) of section *seventy-two* apply in respect of both of the districts affected or, as the case may be, in respect of the area proposed to be severed from any district as well as the remainder of that district,

or unless the Minister is of the opinion that the owners concerned in any particular case have unreasonably withheld their approval or that it is desirable to carry out the terms of the proposal set out in such recommendation.

(3) Any proclamation issued under sub-section (1) shall indicate the name by which any irrigation district constituted thereby, including any such district constituted by excluding from an existing district any area forming part thereof or by including in an existing district any additional area, shall be known.

(4) 'n Verandering in die gebied wat 'n bestaande besproeiingsdistrik omvat, word nie geag die instelling van 'n nuwe besproeiingsdistrik uit te maak nie, hetsy die naam van daardie distrik of van sy besproeiingsraad verander word al dan nie, en behoudens die bepalings van sub-artikels (5) en (6)—

- (a) bly al die bates, regte, laste en verpligtings wat op die datum waarop die verandering plaasvind in die raad van bedoelde bestaande distrik gevestig is of op hom rus, in daardie raad gevestig of rus dit op hom asof geen verandering plaasgevind het nie; en
- (b) bly enige verordening uitgevaardig of beslissing gegee of belasting of vordering gehef deur bedoelde raad, ten volle van krag en is dit, vir sover dit aldus toegepas kan word, ook van toepassing met betrekking tot enige addisionele gebied in so 'n bestaande distrik ingesluit:

Met dien verstande dat die lede van bedoelde raad wat dien op die datum waarop die verandering plaasvind, hul setels ontruim op daardie datum of op so 'n later datum as wat die Minister mag gelas, en daarop word nuwe lede verkies asof 'n nuwe besproeiingsdistrik ingestel was.

(5) Wanneer 'n gedeelte van die gebied wat binne 'n besproeiingsdistrik val met 'n ander sodanige distrik of enige gedeelte van die in so 'n ander distrik inbegrepe gebied saamgesmelt word, of enige gedeelte van die onder so 'n distrik inbegrepe gebied tot 'n besproeiingsdistrik omgeskep is, hetsy alleen of tesame met enige ander gebied, stel die Minister 'n komitee aan bestaande uit drie amptenare van die departement, van wie hy een as voorsitter van die komitee aanwys, om die bates, regte, laste en verpligtings van al die besproeiingsrade wat geraak word tussen daardie rade te verdeel op die wyse wat die komitee billik ag, en 'n verdeling deur so 'n komitee gemaak, is afdoende en vir al daardie rade bindend.

(6) Die bepalings van sub-artikel (5) is ook van toepassing waar 'n nuwe besproeiingsdistrik wat die gebiede inbegrepe onder twee of meer bestaande distrikte omvat, ingestel word, indien bedoelde nuwe distrik benewens daardie bestaande distrikte, en nie ter vervanging daarvan nie, ingestel word.

(7) Waar die gebiede of gedeeltes van die gebiede wat twee of meer bestaande besproeiingsdistrikte uitmaak, saamgesmelt word, hetsy alleen of tesame met enige addisionele gebied of gebiede, om 'n besproeiingsdistrik ter vervanging van bedoelde bestaande distrikte daar te stel—

- (a) gaan alle bates, regte, laste en verpligtings wat op die datum waarop die vervanging van krag word in die raad van so 'n bestaande distrik gevestig is of by hom berus, oor op en berus dit by die raad van die vervangende distrik; en
- (b) bly enige verordening uitgevaardig of beslissing gegee of belasting of vordering gehef deur die raad van so 'n bestaande distrik ten volle van krag asof dit deur die raad van die vervangende distrik uitgevaardig, gegee of gehef was, en is dit, vir sover dit toegepas kan word, en in die mate wat deur die Minister bepaal en by kennisgewing in die *Staatskoerant* bekend gemaak word, ook met betrekking tot enige addisionele gebied wat by die vervangende distrik ingelyf is, van toepassing.

Grotere en kleinere besproeiingsdistrikte.

77. (1) Wanneer 'n besproeiingsdistrik 'n ander besproeiingsdistrik insluit, is die gebied aldus ingesluit, met betrekking tot die besproeiingsdistrik waarby dit ingesluit is, as die kleinere besproeiingsdistrik bekend, en is die besproeiingsdistrik waarby dit ingesluit is, met betrekking tot bedoelde kleinere besproeiingsdistrik, as die grotere besproeiingsdistrik bekend.

(2) Die lys van belasbare oppervlaktes ingevolge artikel *agten-tagtig* opgestel ten opsigte van 'n kleinere besproeiingsdistrik, is die lys van daardie belasbare oppervlaktes vir die grotere besproeiingsdistrik waarby genoemde kleinere besproeiingsdistrik ingesluit is, en die totale belastings gehef deur die raad van bedoelde grotere besproeiingsdistrik ten opsigte van grond geleë in die kleinere besproeiingsdistrik is 'n las teen die raad van daardie kleinere besproeiingsdistrik en word by die toepassing van paragraaf (a) van sub-artikel (1) van artikel *negentig*, geag uitgawe te wees wat deur die raad van die kleinere besproeiingsdistrik aangegaan is.

Afskaffing van besproeiingsdistrikte.

78. (1) Wanneer—

- (a) 'n besproeiingsraad gedurende twaalf agtereenvolgende maande geen vergadering gehou het nie; of
- (b) op 'n spesiale vergadering ingevolge sub-artikel (2) van artikel *honderd-en-een* vir die doel belê persone

(4) A change in the area comprised within an existing irrigation district shall not be deemed to constitute the establishment of a new irrigation district, whether or not the name of such district or of its irrigation board is altered, and, subject to the provisions of sub-sections (5) and (6)—

- (a) all assets, rights, liabilities and obligations vested in or devolving upon the board of such existing district on the date upon which the change takes effect, shall continue to vest in or devolve upon that board as if no change had taken place; and
- (b) any by-law made or decision given or rate or charge imposed by such board shall remain of full force and effect and shall, in so far as it can be so applied, apply also in relation to any additional area included in such existing district:

Provided that the members of such board holding office at the date on which the change takes effect shall vacate their seats on that date or on such later date as the Minister may direct, and thereupon new members shall be elected as if a new irrigation district had been established.

(5) Whenever any portion of the area included within an irrigation district is combined with another such district or any portion of the area included in such other district, or any portion of the area included in any such district has, either alone or together with any other area, been constituted as an irrigation district, the Minister shall appoint a committee consisting of three officers of the department, one of whom he shall designate as chairman of the committee, to apportion the assets, rights, liabilities and obligations of all the irrigation boards affected amongst those boards in such manner as the committee may consider equitable, and any apportionment made by such committee shall be final and binding upon all such boards.

(6) The provisions of sub-section (5) shall apply also where a new irrigation district comprising the areas included in two or more existing districts is established if such new district is established in addition to and not in substitution for such existing districts.

(7) Where the areas or portions of the areas comprising two or more existing irrigation districts are, either alone or together with any additional area or areas, combined to form an irrigation district in substitution for such existing districts—

- (a) all assets, rights, liabilities and obligations vested in or devolving upon the board of any such existing district on the date upon which the substitution takes effect, shall vest in and devolve upon the board of the substituted district; and
- (b) any by-law made or decision given or rate or charge imposed by the board of any such existing district shall remain of full force and effect as if made, given or imposed by the board of the substituted district, and shall, in so far as it can be applied, and to the extent determined by the Minister and made known by notice in the *Gazette* apply also in relation to any additional area included in such substituted district.

77. (1) Whenever an irrigation district comprises another irrigation district, the area so comprised shall, in relation to the irrigation district within which it is comprised, be known as the minor irrigation district, and the irrigation district comprising it shall, in relation to such minor irrigation district, be known as the major irrigation district. Major and minor irrigation districts

(2) The schedule of rateable areas prepared in terms of section *eighty-eight* in respect of any minor irrigation district, shall be the schedule of those rateable areas for the major irrigation district within which the said minor irrigation district is included, and the total of the rates levied by the board of the said major irrigation district in respect of land within the minor irrigation district shall be a charge against the board of such minor irrigation district and shall, for the purposes of paragraph (a) of sub-section (1) of section *ninety*, be deemed to be expenditure incurred by the board of the minor irrigation district.

78. (1) Whenever—

- (a) an irrigation board has not during any consecutive twelve months held any meeting; or
- (b) at a special meeting convened for the purpose in terms of sub-section (2) of section *one hundred and*

Disestablishment of irrigation districts.

wat 'n meerderheidstem volgens die jongste kieserslys van 'n besproeiingsdistrik verteenwoordig, en geregtig sou wees om by 'n verkiesing van lede van die raad van daardie distrik te stem indien 'n verkiesing dan gehou sou word, ten gunste van die afskaffing van sodanige besproeiingsdistrik stem en 'n versoekskrif by die Minister indien waarin versoek word dat bedoelde besproeiingsdistrik afgeskaf word; of

- (c) die Minister kragtens sub-paragraaf (iii) van paragraaf (a) van sub-artikel (2) van artikel vyf-en-negentig die werksaamhede van 'n besproeiingsraad aanvaar het, en hy dit te eniger tyd daarna in die belang van die meerderheid van die persone aanspreeklik vir die betaling van belastinge aan daardie raad wenslik ag dat genoemde raad afgeskaf word,

kan die Goewerneur-generaal, op 'n aanbeveling deur die Minister gemaak na sodanige ondersoek as wat die Minister goetvind, bedoelde besproeiingsdistrik by proklamasie in die *Staatskoerant* afskaf.

(2) Die Minister kan—

- (a) by 'n hooggeregshof wat in die betrokke gebied regsbevoeg is, aansoek doen om opdrag met betrekking tot die beskikking oor die goed of die likwidasië van die sake van die raad van 'n besproeiingsdistrik wat ingevolge sub-artikel (1) afgeskaf is, en bedoelde hof kan in verband met die aangeleentheid so 'n bevel uitvaardig as wat hy goetvind; of

- (b) 'n komiteë aanstel bestaande uit drie amptenare van die departement, van wie hy een as voorsitter van die komiteë aanwys, om hom met advies te bedien in verband met die likwidasië van die sake van die raad, en kan, na oorweging van die verslag van bedoelde komiteë, so 'n bevel in verband met die aangeleentheid uitvaardig as wat hy goetvind, en so 'n bevel is afdoende en bindend vir alle persone wat daardeur geraak word.

Instelling van
besproeiings-
rade.

79. (1) Vir iedere besproeiingsdistrik is daar 'n besproeiingsraad wat bekend staan onder die naam daaraan gegee te word in die proklamasie waarby daardie besproeiingsdistrik ingestel word: Met dien verstande dat, wanneer die gebied wat 'n besproeiingsdistrik uitmaak, verander word, die naam van die raad van daardie distrik ook verander kan word.

(2) 'n Besproeiingsraad is met regspersoonlikheid bekleed en bevoeg om in sy naam as regspersoon as eiser en verweerder in regte op te tree en alle handelinge te verrig wat vir die uitvoering van sy pligte of die verrigting van sy werksaamhede nodig is of daarmee in verband staan: Met dien verstande dat 'n besproeiingsraad geen grond aankoop, besit of verkoop nie, behalwe met goedkeuring van die Minister, en dat geen grond wat aan hom behoort, anders as by openbare veiling verkoop word nie.

(3) Grond wat aan 'n besproeiingsraad behoort en wat buite die grense van sy besproeiingsdistrik geleë is, word geag deel van daardie distrik uit te maak en word deur die Goewerneur-generaal by proklamasie in die *Staatskoerant* by daardie distrik ingelyf.

Getal lede van
besproeiingsraad.

80. (1) 'n Besproeiingsraad bestaan uit drie, ses of nege lede soos die Minister van tyd tot tyd vasstel, of, in die geval van die raad van 'n distrik wat in sub-distrikte ingedeel is, uit soveel lede ten opsigte van elke sodanige sub-distrik, maar hoogstens drie, as wat die Minister van tyd tot tyd bepaal, maar sodat die totale aantal lede nie twaalf te bowe gaan nie: Met dien verstande dat indien 'n plaaslike bestuur ooreenkomstig paragraaf (j) van sub-artikel (1) van artikel nege-en-tagtig deur 'n besproeiingsraad van water voorsien word, die Minister, tensy 'n genomineerde van daardie plaaslike bestuur as lid van die raad gekies word, 'n deur daardie plaaslike bestuur benoemde persoon kan aanstel om daardie plaaslike bestuur in die raad te verteenwoordig vir die tydperk wat die Minister goetvind, en die aldus aangestelde persoon word vir alle doeleindes geag 'n lid van daardie raad te wees.

(2) Indien 'n besproeiingsdistrik wat in sub-distrikte ingedeel is, ophou om aldus ingedeel te wees, of so 'n distrik wat nie aldus ingedeel is nie, wel so ingedeel word, of die aantal lede van die besproeiingsraad van 'n besproeiingsdistrik vermeerder of verminder word, ontruim die persone wat dan as lede van die besproeiingsraad van daardie distrik dien, hul ampte op 'n datum wat die Minister bepaal, en word 'n verkiesing van lede van bedoelde raad gehou op die wyse in hierdie Wet ten opsigte van 'n eerste verkiesing van lede van so 'n raad bepaal, en al die bepalinge van hierdie Wet met betrekking tot so 'n eerste

one, persons representing a majority of votes, according to the latest voters' list of an irrigation district, who would be qualified to vote at an election of members of the board of such district if an election were then held, vote in favour of the disestablishment of such irrigation district and submit to the Minister a petition requesting that the said irrigation district be disestablished; or

- (c) the Minister has assumed the functions of an irrigation board in terms of sub-paragraph (iii) of paragraph (a) of sub-section (2) of section *ninety-five*, and at any time thereafter he deems it desirable in the interests of the majority of the persons liable for the payment of rates to such board that the said board be disestablished,

the Governor-General may, upon the recommendation of the Minister made after such enquiry as the Minister deems fit, by proclamation in the *Gazette* disestablish the said irrigation district.

(2) The Minister may—

- (a) apply to any superior court having jurisdiction in the area concerned for directions as to the disposal of the property or the liquidation of the affairs of the board of an irrigation district disestablished in terms of sub-section (1), and the said court may make such order in the matter as it deems fit; or
- (b) appoint a committee consisting of three officers of the department, one of whom he shall designate as chairman of the committee, to advise him as to the liquidation of the affairs of the board, and may after consideration of the report of any such committee make such order in the matter as he deems fit and such order shall be final and binding on all persons affected.

79. (1) For every irrigation district there shall be an irrigation board which shall be known by the name to be given to it in the proclamation whereby such irrigation district is established: Provided that whenever the area comprising any irrigation district is changed, the name of the board of such district may also be changed. Establishment of irrigation boards.

(2) An irrigation board shall be a body corporate, capable of suing and being sued in its corporate name and of performing all such acts as are necessary for or incidental to the carrying out of its duties or the performance of its functions: Provided that an irrigation board shall not buy, hold or sell land without the approval of the Minister, and that no land belonging to it shall be sold except by public auction.

(3) Any land owned by an irrigation board which is situated outside the boundaries of its irrigation district, shall be deemed to form part of the said district and shall be included in such district by the Governor-General by proclamation in the *Gazette*.

80. (1) An irrigation board shall consist of three, six or nine members, as the Minister shall from time to time determine, or, in the case of the board of a district which is divided into sub-districts, of so many members in respect of each such sub-district, not exceeding three, as the Minister may from time to time determine, but so that the total number of members shall not exceed twelve: Provided that if a local authority is supplied with water by an irrigation board in terms of paragraph (j) of sub-section (1) of section *eighty-nine*, the Minister may, unless a nominee of such local authority is elected as a member of the board, appoint any person nominated by such local authority to represent it on the board for such period as he may deem fit, and the person so appointed shall for all purposes be deemed to be a member of the said board. Number of members of an irrigation board.

(2) If an irrigation district which is divided into sub-districts ceases to be so divided, or any such district not divided into sub-districts is so divided, or the number of members of the irrigation board of an irrigation district is increased or reduced, the persons then holding office as members of the irrigation board of such district, shall vacate their offices on a date to be determined by the Minister and an election of members of such board shall be held in the manner prescribed in this Act in respect

verkiesing en tot die aldaar verkose persone is van toepassing ten opsigte van bedoelde verkiesing en ten opsigte van die lede wat daarop gekies word.

(3) Die lede van 'n besproeiingsraad word, behoudens die bepalings van sub-artikel (1) van hierdie artikel en sub-artikel (5) van artikel *vier-en-tagtig*, op die hieronder bepaalde wyse gekies: Met dien verstande dat twee-derdes van die lede van 'n besproeiingsraad wat ingevolge 'n aanbeveling kragtens artikel *drie-en-sewentig* ingestel is, deur die Minister aangestel kan word.

Kwalifikasies
van kandidate
vir besproeiings-
rade.

81. Elke persoon wie se naam op die volgens artikel *drie-en-tagtig* opgestelde kieserslys van 'n besproeiingsdistrik voorkom, is bevoeg om as lid van die besproeiingsraad van daardie distrik gekies te word, tensy hy volgens sub-artikel (1) van artikel *twee-en-tagtig* onbevoeg is om te stem, of sonder toestemming van die Minister by 'n bestaande kontrak met die raad ter waarde van meer as vyftig pond party is of by so 'n kontrak belang het: Met dien verstande dat indien 'n besproeiingsdistrik in sub-distrikte ingedeel is, 'n persoon slegs bevoeg is om ten opsigte van die sub-distrik waaronder sy naam op bedoelde lys voorkom as lid van daardie besproeiingsraad gekies te word.

Stemming vir
lede van be-
sproeiingsrade.

82. (1) Behoudens die bepalings van sub-artikel (3) van hierdie artikel en van die voorbehoudsbepaling by sub-artikel (1) van artikel *drie-en-tagtig*—

(a) is iedere persoon wie se naam op die volgens artikel *drie-en-tagtig* opgestelde kieserslys van 'n besproeiingsdistrik voorkom, geregtig om kandidate vir verkiesing as lede van die besproeiingsraad van die distrik te nomineer en by 'n verkiesing van lede van so 'n raad te stem, tensy—

(i) enige belastings deur bedoelde raad gehef op die grond ten opsigte waarvan daardie persoon se naam op bedoelde lys geplaas is, op die datum van bedoelde nominasie of verkiesing, al na die geval, drie maande of langer agterstallig is; of

(ii) daardie persoon opgehou het om die eienaar te wees van die grond ten opsigte waarvan sy naam op bedoelde lys voorkom; of

(iii) daardie persoon die geakkrediteerde verteenwoordiger is van 'n eienaar wat opgehou het om die eienaar te wees van die grond ten opsigte waarvan daardie persoon se naam op genoemde lys voorkom, of daardie persoon opgehou het om oor die werksaamhede op bedoelde grond uitgevoer, toesig te hou;

(b) het iedere persoon wat volgens paragraaf (a) stemgeregtig is, ten opsigte van elke vakature wat by 'n verkiesing gevul moet word—

(i) in die geval van 'n persoon in wie se naam grond kragtens sub-paragraaf (ii) van paragraaf (b) van sub-artikel (1) van artikel *agt-en-tagtig* of, in die geval van 'n eerste verkiesing, kragtens sub-paragraaf (v) van paragraaf (a) van daardie sub-artikel, in 'n lys opgeneem is, een stem vir elke vyf morg of deel van vyf morg van die grond aldus opgeneem; of

(ii) in die geval van enige ander persoon, soveel stemme as wat ten opsigte van elke betrokke besproeiingsdistrik op die by regulasie voorgeskrewe wyse bepaal word:

Met dien verstande dat geen persoon meer as tien stemme ten opsigte van 'n enkele kandidaat kan uitbring nie.

(2) Die Regering, met inbegrip van die Suid-Afrikaanse Spoorweg- en Hawensadministrasie en enige provinsiale administrasie, of 'n plaaslike bestuur of ander regspersoon wat in bedoelde kieserslys opgeneem is, kan deur 'n behoorlik deur die betrokke Staatsdepartement, administrasie, plaaslike bestuur of ander regspersoon daartoe genomineerde persoon stem.

(3) 'n Persoon wie se naam voorkom op 'n kieserslys ten opsigte van 'n sub-distrik van 'n besproeiingsdistrik opgestel, is geregtig om kandidate te nomineer en te stem alleen in verband met verkiesings van lede vir daardie sub-distrik.

Kieserslys.

83. (1) Die direkteur moet vir die eerste verkiesing van lede van die besproeiingsraad van 'n besproeiingsdistrik, 'n voorlopige kieserslys opstel waarin—

(a) die name van die eienaars van grond met betrekking waartoe die bepalings van sub-paragraaf (v) van paragraaf (a) van sub-artikel (1) van artikel *agt-en-tagtig* van toepassing is; en

of a first election of members of such a board, and all the provisions of this Act relating to such a first election and to the persons elected thereat shall apply in respect of such election and in respect of the members thereupon elected.

(3) The members of an irrigation board shall, subject to the provisions of sub-section (1) of this section and sub-section (5) of section *eighty-four*, be elected in the manner hereinafter specified: Provided that two-thirds of the members of an irrigation board established in pursuance of a recommendation under section *seventy-three* may be appointed by the Minister.

81. Every person whose name is on the voters' list of an irrigation district prepared under section *eighty-three*, shall be eligible for election as a member of the irrigation board of the said district, unless he is disqualified from voting in terms of sub-section (1) of section *eighty-two* or is without the permission of the Minister a party to any subsisting contract with the board exceeding fifty pounds in value, or is without such permission interested in any such contract: Provided that, if an irrigation district is divided into sub-districts, a person shall be eligible for election as a member of the said irrigation board only in respect of the sub-district under which his name appears on the said list.

Qualifications of candidates for irrigation boards.

82. (1) Subject to the provisions of sub-section (3) of this section and of the proviso to sub-section (1) of section *eighty-three*—

Voting for members of irrigation boards.

(a) every person whose name is on the voters' list of an irrigation district prepared under section *eighty-three*, shall be entitled to nominate candidates for election as members of the irrigation board of the district and to vote at an election of members of such board, unless—

- (i) any rates levied by the said board on the land in respect of which such person's name has been placed upon the said list are in arrear for three months or more at the date of such nomination or election, as the case may be; or
- (ii) such person has ceased to be the owner of the land in respect of which his name appears on the said list; or
- (iii) such person is the accredited representative of an owner who has ceased to be the owner of the land in respect of which that person's name appears on the said list or that person has ceased to superintend the operations carried out on such land;

(b) every person entitled to vote in terms of paragraph (a) shall have in respect of every vacancy to be filled at an election—

- (i) in the case of a person in whose name any land has been scheduled under sub-paragraph (ii) of paragraph (b) of sub-section (1) of section *eighty-eight*, or, in the case of a first election, under sub-paragraph (v) of paragraph (a) of that sub-section, one vote for every five morgen or part of five morgen of the land so scheduled; or
- (ii) in the case of any other person, so many votes as may, in respect of each irrigation district affected, be determined in the manner prescribed by regulation:

Provided that no person shall exercise more than ten votes in respect of any single candidate.

(2) The Government, including the South African Railways and Harbours Administration and any provincial administration, or a local authority or other corporate body included in the said voters' list may vote by a person duly nominated thereto by the Government department, administration, local authority or other corporate body concerned.

(3) A person whose name appears on a voters' list prepared in respect of a sub-district of an irrigation district shall be entitled to nominate candidates and to vote only in connection with elections of members for that sub-district.

83. (1) The director shall, for the purposes of the first election of members of the irrigation board of an irrigation district, prepare a preliminary voters' list showing—

Voters' List.

- (a) the names of the owners of land in relation to which the provisions of sub-paragraph (v) of paragraph (a) of sub-section (1) of section *eighty-eight* apply; and

- (b) die name van eienaars van ander grond (as daar is), binne die distrik wat volgens die Minister se oordeel geraak word of waarskynlik sal word deur enige werke deur die betrokke besproeiingsraad gebou of bedoel om gebou te word,
- en die aantal stemme wat elke sodanige eenaar ooreenkomstig paragraaf (b) van sub-artikel (1) van artikel *twee-en-tagtig* geregtig is om ten opsigte van daardie eerste verkiesing uit te bring, aangetoon word: Met dien verstande dat—
- (i) indien daardie besproeiingsdistrik in sub-distrikte ingedeel is, die kieserslys van daardie distrik in sub-distrikte ingedeel moet word en die name van bedoelde eienaars onder die onderskeie sub-distrikte waarin daardie grond geleë is, aangetoon moet word;
 - (ii) indien in paragraaf (a) bedoelde grond deur twee of meer persone besit word, en elkeen van hulle nie 'n afsonderlike en omskrewe gedeelte daarvan besit nie, elkeen van daardie persone geregtig is tot opname van sy naam in bedoelde kieserslys ten opsigte van 'n oppervlakte bepaal deur die totale omvang van die aldus ingelyste grond deur die getal van daardie persone te deel, tensy die oppervlakte aldus bepaal minder as vyf morg is;
 - (iii) indien die oppervlakte soos volgens sub-paragraaf (ii) bepaal, minder as vyf morg is, bedoelde persone geregtig is om hul name gesamentlik in sodanige kieserslys te laat opneem en om gesamentlik die aantal stemme volgens sub-paragraaf (i) van paragraaf (b) van sub-artikel (1) van artikel *twee-en-tagtig* ten opsigte van die betrokke grond bepaal, uit te bring, deur een uit hul midde aan te wys om namens hulle te stem, en so 'n aanwysing moet skriftelik geskied en by die direkteur ingedien word;
 - (iv) wanneer die eenaar van aldus ingelyste grond nie permanent op daardie grond woon nie, sy geakkrediteerde verteenwoordiger, solank hy oor die werksaamhede wat op daardie grond uitgevoer word, toesig hou, vir alle doeleindes geregtig is om sy naam in die plek van daardie eenaar op bedoelde kieserslys te laat opneem.
- (2) (a) 'n Ingevolge sub-artikel (1) opgestelde voorlopige kieserslys moet so gou doenlik nadat 'n besproeiingsraad volgens artikel *agt-en-tagtig* 'n lys opgestel het, op die by regulasie voorgeskrewe wyse deur daardie raad hersien word.
- (b) Die aldus hersiene kieserslys moet aangee die name van alle eienaars van grond volgens artikel *agt-en-tagtig* ingelys en die aantal stemme waartoe elke eenaar ooreenkomstig paragraaf (b) van sub-artikel (1) van artikel *twee-en-tagtig* geregtig is om ten opsigte van enige verkiesing van lede van bedoelde raad uit te bring, en die voorbehoudsbepaling by sub-artikel (1) is *mutatis mutandis* ten opsigte van so 'n hersiene lys van toepassing.
- (c) Sodanige kieserslys word daarna jaarliks deur bedoelde raad hersien, asook wanneer die grense van die betrokke besproeiingsdistrik verander is of daardie besproeiingsdistrik met 'n ander besproeiingsdistrik saamgesmelt is of 'n gedeelte van daardie besproeiingsdistrik tot 'n besproeiingsdistrik omgeskep is.
- (3) 'n Afskrif van die lys ooreenkomstig sub-artikel (1) of (2) opgestel of hersien, word deur die sekretaris van die betrokke besproeiingsraad gehou en kan op alle redelike tye gratis deur enige belanghebbende persoon ingesien word.
- (4) Indien 'n kieserslys wat volgens sub-artikel (1) deur die direkteur opgestel is, om een of ander rede nie deur die betrokke besproeiingsraad hersien is nie, word die aldus opgestelde lys geag die kieserslys te wees van die besproeiingsdistrik waarop dit betrekking het tot tyd en wyl dit aldus hersien is.
- (5) Wanneer 'n kieserslys ingevolge hierdie artikel deur 'n besproeiingsraad opgestel of hersien is, moet daardie raad 'n afskrif daarvan aan die departement stuur.

Verkiesing van
lede van
besproeiingsrade
en ampsduur van
lede.

84. (1) (a) Die nominasie van kandidate vir verkiesing as lede van 'n besproeiingsraad, die verkiesing van lede en die prosedure en stemming daarby geskied op die by regulasie voorgeskrewe wyse.
- (b) Die datum van die eerste verkiesing word deur die direkteur vasgestel, wat ten opsigte van so 'n verkiesing en die nominasie van kandidate in verband daarmee, 'n kiesbeampte moet aanstel.

- (b) the names of owners of other land, if any, within the district which, in the opinion of the Minister, is or is likely to be affected by any works constructed or intended to be constructed by the irrigation board concerned,

and the number of votes which each such owner is, in accordance with paragraph (b) of sub-section (1) of section *eighty-two*, entitled to exercise in respect of such first election: Provided that—

- (i) if the said irrigation district is divided into sub-districts, the voters' list of such district shall be divided into sub-districts and the names of the said owners shall be shown under the respective sub-districts in which the said land is situated;
- (ii) if land referred to in paragraph (a) is owned by two or more persons, each of whom does not own a separate and defined portion thereof, each such person shall be entitled to have his name included in the said voters' list in respect of an area determined by dividing the total extent of land so scheduled by the number of such persons, unless the area so determined is less than five morgen;
- (iii) if the area determined under sub-paragraph (ii) is less than five morgen, the said persons shall be entitled to have their names jointly included in such voters' list and to exercise jointly the number of votes determined in accordance with sub-paragraph (i) of paragraph (b) of sub-section (1) of section *eighty-two* in respect of the land referred to by designating one of their number to vote on their behalf, which said designation shall be in writing and shall be lodged with the director;
- (iv) whenever the owner of land so scheduled is not permanently resident on such land, his accredited representative shall, so long as he superintends the operations conducted on such land, for all purposes be entitled to have his name placed on the said voters' list in the stead of such owner.

(2) (a) Any preliminary voters' list prepared under sub-section (1) shall as soon as may be practicable after an irrigation board has prepared a schedule under section *eighty-eight*, be revised by the said board in the manner prescribed by regulation.

(b) The voters' list as so revised shall show the names of all owners of land scheduled under section *eighty-eight* and the number of votes which each owner is, in accordance with paragraph (b) of sub-section (1) of section *eighty-two*, entitled to exercise in respect of any election of members of the said board, and the proviso to sub-section (1) shall apply *mutatis mutandis* in respect of such revised list.

(c) The said voters' list shall thereafter be revised by such board annually and also whenever the boundaries of the irrigation district in question have been altered or such irrigation district has been combined with another irrigation district, or any portion of such irrigation district has been constituted as an irrigation district.

(3) A copy of the list prepared or revised in accordance with sub-section (1) or (2) shall be kept by the secretary of the irrigation board concerned and may be inspected free of charge at any reasonable time by any person interested.

(4) If for any reason a voters' list prepared by the director under sub-section (1) has not been revised by the irrigation board concerned, the list so prepared shall be deemed to be the voters' list of the irrigation district to which it relates until it has been so revised.

(5) Whenever a voters' list has been prepared or revised by an irrigation board under this section, a copy thereof shall be transmitted by the said board to the department.

84. (1) (a) The nomination of candidates for election as members of an irrigation board, the election of members and the procedure and voting thereat shall take place in the manner prescribed by regulation.
- (b) The date of the first election shall be determined by the director, who shall, in respect of such election and the nomination of candidates in connection therewith, appoint a returning officer.

Election of members of irrigation boards and duration of office of members.

- (c) Ten opsigte van 'n nominasie van 'n kandidaat of 'n verkiesing van lede, uitgesonderd die eerste nominasie of verkiesing, tree die voorsitter van die besproeiingsraad ten opsigte waarvan die nominasie of verkiesing geskied of 'n deur hom genomineerde lid van daardie raad as kiesbeamppte op: Met dien verstande dat die voorsitter of 'n lid nie aldus optree indien hy 'n kandidaat vir nominasie of verkiesing is nie.
- (2) Behoudens die bepalings van sub-artikels (3) en (4), beklee die lede van 'n besproeiingsraad hul amp vir 'n tydperk van drie jaar vanaf die datum van hul verkiesing, en 'n lid wat sy amp ontruim, is, mits hy daartoe bevoeg is, herkiesbaar.
- (3) Na die eerste verkiesing van lede van 'n besproeiingsraad, word 'n verkiesing gehou wanneer dit nodig is om 'n vakature te vul en iemand wat dan verkies word, beklee sy amp asof hy lid van die raad geword het op die datum waarop sy voorganger sy amp weens tydsverloop ontruim het of, al na die geval, aldus sou ontruim het indien hy sy amp vir die volle in sub-artikel (2) voorgeskrewe tydperk beklee het.
- (4) Van die lede wat verkies word by die eerste verkiesing van lede van 'n besproeiingsraad—
- (a) van 'n besproeiingsdistrik wat in sub-distrikte ingedeel is—
- (i) beklee die lid vir so 'n sub-distrik verkies, op wie die hoogste aantal stemme uitgebring is, sy amp vir 'n tydperk van drie jaar;
 - (ii) beklee die lid aldus verkies, op wie die tweede-hoogste aantal stemme uitgebring is, sy amp vir 'n tydperk van twee jaar; en
 - (iii) beklee die oorblywende lid aldus verkies sy amp vir 'n tydperk van een jaar;
- (b) van 'n besproeiingsdistrik wat nie in sub-distrikte ingedeel is nie—
- (i) beklee een-derde van die lede verkies, op wie die hoogste aantalle stemme uitgebring is, hul amp vir 'n tydperk van drie jaar;
 - (ii) beklee een-derde van die lede verkies, op wie die tweede-hoogste aantalle stemme uitgebring is, hul amp vir 'n tydperk van twee jaar; en
 - (iii) beklee die oorblywende een-derde van die lede verkies, hul amp vir 'n tydperk van een jaar:
- Met dien verstande dat indien in enige geval geen stemming nodig is nie of gelyke aantalle stemme op twee of meer kandidate uitgebring is, die onderskeie ampstermyne van die betrokke lede onder toesig van die kiesbeamppte deur loting beslis word.
- (5) Indien 'n vakature in 'n besproeiingsraad om een of ander rede nie deur die verkiesing van 'n lid daartoe gevul word nie, stel die Minister 'n persoon aan wat hy geskik ag om lid van die raad te wees om die vakature te vul vir so 'n tydperk as wat die Minister goedvind, en so 'n persoon aangestel as opvolger van 'n lid van die raad wat uitgetree het, beklee sy amp vir die tydperk ten opsigte waarvan hy die amp sou beklee het indien hy verkies was om die vakature te vul by verstryking van die ampstermyne van sy laaste voorganger wie se ampstermyne deur tydsverloop verstryk het.

Toevallige vakatures in besproeiingsrade.

85. (1) Indien 'n lid van 'n besproeiingsraad ophou om die kwalifikasies te besit wat hom bevoeg sou maak om sy naam in die kieserslys van die besproeiingsdistrik ten opsigte waarvan bedoelde raad ingestel is, te laat opneem indien daardie lys dan hersien sou word, of indien so 'n lid sterf of bedank of insolvent of kranksinnig word of weens 'n misdryf veroordeel en met gevangenisstraf sonder die keuse van 'n boete gestraf word of andersins onbevoeg raak om 'n lid van die raad te wees of van drie agtereenvolgende vergaderings van die raad afwesig is sonder dat hy vooraf die verlof van die raad daartoe verkry het, ontruim hy sy setel.

(2) So dikwels as wat so 'n vakature ontstaan, moet 'n ander persoon genomineer en verkies word om die vakature te vul, en die bepalings van hierdie Wet en die regulasies betreffende die nominasie van kandidate vir verkiesing tot lede van 'n besproeiingsraad, die verkiesing van lede, en die prosedure en wyse van stemming daarby, is *mutatis mutandis* van toepassing ten opsigte van die vulling van so 'n vakature: Met dien verstande dat—

- (a) die datum vir die nominasie en verkiesing om so 'n vakature te vul, deur die in paragraaf (c) van sub-artikel (1) van artikel vier-en-tagtig bedoelde kiesbeamppte binne twee maande na die vakature ontstaan het, vasgestel moet word; en
- (b) die lid wat verkies word om die vakature te vul sy amp beklee vir die oorblywende gedeelte van die tyd-

- (c) In respect of a nomination of any candidate or any election of members other than the first nomination or election, the chairman of the irrigation board in respect of which such nomination or election is held or a member of the said board nominated by him shall act as returning officer: Provided that the chairman or a member shall not so act if he is a candidate for nomination or election.

(2) Subject to the provisions of sub-sections (3) and (4), the members of an irrigation board shall hold office for a period of three years from the date of their election and a member vacating office shall, if qualified thereto, be eligible for re-election.

(3) After the first election of members of an irrigation board, an election shall be held whenever necessary to fill any vacancy and a person then elected shall hold office as if he had become a member of the board on the date on which his predecessor vacated his office owing to effluxion of time or (as the case may be) would, if he had remained in office for the full period prescribed in sub-section (2), have so vacated his office.

(4) Of the members elected at the first election of members of an irrigation board—

(a) of an irrigation district which is divided into sub-districts—

- (i) the member elected for any such sub-district who stands first on the poll shall hold office for a period of three years;
- (ii) the member so elected who stands second on the poll shall hold office for a period of two years; and
- (iii) the remaining member so elected shall hold office for a period of one year;

(b) of an irrigation district which is not divided into sub-districts—

- (i) one-third of the members elected, who stand highest on the poll, shall hold office for a period of three years;
- (ii) one-third of the members elected, who stand next highest on the poll, shall hold office for a period of two years; and
- (iii) the remaining one-third of the members elected shall hold office for a period of one year:

Provided that if in any case no poll is required to be held, or if two or more candidates have received equal numbers of votes, the respective periods of office of the members affected shall be determined by lot under the supervision of the returning officer.

(5) If for any reason any vacancy existing on an irrigation board be not filled by the election of a member thereto, the Minister shall appoint any person whom he considers suitable to be a member of the board to fill the vacancy for such period as the Minister may deem fit, and any such person appointed in succession to a member of the board who has vacated office, shall hold office for the period in respect of which he would have held office had he been elected to fill the vacancy upon the expiration of the period of office of his last predecessor whose term of office expired by effluxion of time.

85. (1) If a member of an irrigation board ceases to possess the qualifications which would render him eligible to have his name included in the voters' list of the irrigation district in respect of which such board has been established if such list were then revised, or if any such member dies or resigns or becomes insolvent or of unsound mind or is convicted of an offence and sentenced to imprisonment without the option of a fine or otherwise becomes disqualified to be a member of the board, or absents himself from three consecutive meetings of the board without having previously obtained its leave to do so, his office shall become vacant.

Casual vacancies on irrigation boards.

(2) As often as any such vacancy occurs, another person shall be nominated and elected to fill such vacancy and the provisions of this Act and the regulations relating to the nomination of candidates for election as members of an irrigation board, the election of members, and the procedure and method of voting thereat, shall apply *mutatis mutandis* in respect of the filling of such vacancy: Provided that—

- (a) the date for the nomination and election to fill such a vacancy shall be fixed by the returning officer referred to in paragraph (c) of sub-section (1) of section *eighty-four* within two months of the occurrence of the vacancy; and
- (b) the member elected to fill the vacancy shall hold office for the remainder of the period for which the person

perk waarin die persoon wat gesterf het of andersins sy amp ontruim het en wie se plek gevul is, anders sy amp sou beklee het.

Voorsitter en vise-voorsitter van besproeiingsraad.

86. (1) (a) Die lede van 'n besproeiingsraad moet sodra doenlik na die eerste verkiesing van lede 'n voorsitter en 'n vise-voorsitter van die raad kies.
- (b) Die voorsitter en die vise-voorsitter beklee hul ampte as sodanig onderskeidelik vir 'n tydperk van twaalf maande vanaf die datum waarop hulle daartoe verkies is en is herkiesbaar, en 'n voorsitter of vise-voorsitter wie se ampstyd verstryk het, beklee solank hy 'n lid van die betrokke raad is sy amp as voorsitter of vise-voorsitter, na gelang van die geval, tot die daaropvolgende vergadering van bedoelde raad.
- (c) 'n Besproeiingsraad moet jaarliks 'n nuwe voorsitter en 'n nuwe vise-voorsitter van die raad kies, en indien die voorsitter of vise-voorsitter sterf of sy amp andersins ontruim, moet die raad onverwyld daartoe oorgaan om 'n ander voorsitter of vise-voorsitter te kies vir die oorblywende gedeelte van die tydperk ten opsigte waarvan die betrokke amp vakant geraak het.
- (2) Indien die voorsitter van 'n besproeiingsraad van 'n vergadering van die raad afwesig is, moet die vise-voorsitter daarop voorsit, en indien die vise-voorsitter ook van so 'n vergadering afwesig is, moet die aldaar aanwesige lede van die raad een uit hul midde kies om op daardie vergadering voor te sit.
- (3) Iemand wat kragtens hierdie artikel geregtig is om op 'n vergadering van 'n besproeiingsraad voor te sit, het, by 'n staking van stemme oor enige saak waarvoor die raad moet besluit, benewens sy beraadslagende stem as 'n lid, ook 'n beslissende stem.

Informaliteite by verkiesings, ens., raak nie geldigheid van handeling van 'n besproeiingsraad nie.

87. (1) 'n Besproeiingsraad word nie geag gebrekkig saamgestel te wees nie omrede van versuim om die voorgeskrewe aantal lede van daardie raad te verkies of weens 'n vakature wat daarin bestaan, mits daar 'n voldoende aantal lede in die raad is om 'n kworum uit te maak.

(2) Alle handeling te goeder trou verrig deur 'n besproeiingsraad of sy voorsitter of vise-voorsitter of 'n persoon wat as voorsitter of vise-voorsitter optree of 'n lid van 'n besproeiingsraad of 'n komitee van so 'n raad of 'n amptenaar van die departement aan wie die werksaamhede, bevoegdhede en pligte van 'n besproeiingsraad kragtens sub-artikel (3) van artikel vyf-en-negentig opgedra is, in die uitoefening van bevoegdhede of die uitvoering van werksaamhede of pligte toegewys of opgelê aan daardie besproeiingsraad volgens hierdie Wet of die regulasies kragtens artikel honderd-en-twee uitgevaardig, is, al word daarna ontdek dat daar 'n gebrek was in die samestelling, verkiesing of aanstelling van die raad, voorsitter, vise-voorsitter, komitee, persoon of amptenaar, of dat die raad, voorsitter, vise-voorsitter, komitee, persoon of amptenaar andersins onbevoeg was om aldus op te tree, net so geldig asof die raad, voorsitter, vise-voorsitter, komitee, persoon of amptenaar behoorlik saamgestel, verkies, aangestel of bevoeg was.

Lys van belasbare oppervlaktes van besproeiingsdistrikte.

88. (1) (a) Die direkteur moet, ten opsigte van elke gebied wat na die inwerkingtreding van hierdie Wet tot 'n besproeiingsdistrik verklaar word, 'n voorlopige lys opstel waarin uiteengesit word—
- (i) 'n beskrywing van elke stuk grond in die besproeiingsdistrik;
- (ii) die omvang van elke sodanige stuk grond;
- (iii) besonderhede van die titelbewys waarvolgens daardie stuk grond die laaste maal getransporeer is;
- (iv) die naam van die eienaar van daardie stuk grond; en
- (v) waar toepaslik, die omvang by benadering van die grond wat deel uitmaak van daardie stuk grond wat deur die eienaar daarvan besproei word en voorgestel word om besproei te word, en ten opsigte waarvan kragtens paragraaf (a) van sub-artikel (1) van artikel negentig, belastings deur die raad van daardie besproeiingsdistrik heef kan word,
- en die omvang soos aldus ten opsigte van so 'n stuk grond vasgestel, word, totdat 'n lys deur bedoelde raad opgestel is, geag die belasbare oppervlakte van daardie stuk grond te wees.

who has died or otherwise vacated his office and whose place has been filled would otherwise have continued in office.

86. (1) (a) The members of an irrigation board shall, as soon after the first election of members as is practicable, elect a chairman and a vice-chairman of the board. Chairman and vice-chairman of irrigation board.
- (b) The chairman and the vice-chairman shall respectively hold office as such for a period of twelve months from the date of their election thereto and shall be eligible for re-election, and a chairman or vice-chairman whose period of office has expired shall, so long as he remains a member of the board in question, remain in office as chairman or vice-chairman, as the case may be, until the next succeeding meeting of the said board.
- (c) An irrigation board shall annually elect a new chairman and a new vice-chairman of the board, and if the chairman or vice-chairman dies or otherwise vacates his office, the board shall proceed forthwith to elect another chairman or vice-chairman for the remainder of the period in respect of which the office in question has become vacant.

(2) If the chairman of an irrigation board be absent from any meeting of the board, the vice-chairman shall preside thereat, and if the vice-chairman be also absent from such meeting, the members of the board who are present thereat shall elect one of their number to preside at the said meeting.

(3) Any person who is entitled to preside at a meeting of an irrigation board in terms of this section shall, in the case of an equality of votes upon any matter which the board is determining, have a casting vote in addition to his deliberative vote as a member.

87. (1) An irrigation board shall not be deemed to be defectively constituted by reason of any failure to elect the prescribed number of members of such board, or by reason of any vacancy existing, so long as there is a sufficient number of members on the board to form a quorum. Informalities in elections, etc., not to affect validity of acts done by an irrigation board.

(2) All acts done in good faith by an irrigation board or its chairman or vice-chairman or a person acting as chairman or vice-chairman or a member of an irrigation board or a committee of such board, or an officer of the department to whom the functions, powers and duties of an irrigation board have been delegated in accordance with sub-section (3) of section *ninety-five*, in the carrying out of any powers, functions or duties assigned to or imposed upon such irrigation board by this Act or the regulations made under section *one hundred and two*, shall, although it may afterwards be discovered that there was some defect in the constitution, election or appointment of the board, chairman, vice-chairman, committee, person or officer, or that the board, chairman, vice-chairman, committee, person or officer was otherwise disqualified from so acting, be as valid as if the board, chairman, vice-chairman, committee, person or officer had been duly constituted, elected, appointed or qualified.

88. (1) (a) The director shall, in respect of every area declared to be an irrigation district after the commencement of this Act, prepare a preliminary schedule setting forth— Schedule of rateable areas of irrigation districts.
- (i) a description of every piece of land in the irrigation district;
- (ii) the extent of every such piece of land;
- (iii) particulars of the title deed according to which that piece of land was last transferred;
- (iv) the name of the owner of that piece of land; and
- (v) where applicable, the approximate extent of the land forming part of that piece of land which is irrigated and which is proposed to be irrigated by the owner thereof and in respect of which rates may be levied by the board of the said irrigation district in terms of paragraph (a) of sub-section (1) of section *ninety*, and the extent so determined in respect of any such piece of land shall, until a schedule has been prepared by the said board, be deemed to be the rateable area of that piece of land.

(b) Elke besproeiingsraad moet op die by regulasie voorgeskrewe wyse 'n lys van belasbare oppervlaktes ten opsigte van sy besproeiingsdistrik opstel, waarin uiteengesit word—

(i) die besonderhede in sub-paragrafe (i) tot (iv) van paragraaf (a) beskryf; en

(ii) waar toepaslik, die omvang van die grond wat deel uitmaak van elke in daardie sub-paragrafe bedoelde stuk grond ten opsigte waarvan deur die raad water voorsien kan word uit waterwerke wat die eiendom is van of beheer word deur die raad en wat belasbaar sal wees, en, in die geval van 'n raad waaraan die in paragraaf (f) of (g) van sub-artikel (1) van artikel *nege-en-tagtig* bedoelde bevoegdhede verleen is, die omvang van die grond wat deel uitmaak van elke stuk grond wat oewergrond aan die openbare strome is met betrekking waartoe bedoelde bevoegdhede aan die raad verleen is, wat deur middel van water uit waterwerke behorende aan die eienaar van bedoelde stuk grond besproei word en wat belasbaar sal wees: Met dien verstande dat by die vasstelling van laasbedoelde omvang, die raad rekening moet hou met die aandeel in of volume van die water van voormelde openbare strome wat die eienaar van die grond geregtig is om daarop te gebruik, en die aantal morge wat gewoonlik met behoorlike voorsorg teen verspilling, doeltreffend en voordelig in die loop van 'n jaar deur daardie aandeel of volume besproei kan word, ongeag die aantal morge werklik besproei, of, indien bedoelde omvang nie aldus bepaal kan word nie, die gemiddelde aantal morge van daardie stuk grond wat jaarliks uit bedoelde openbare strome besproei word, soos deur afmetings of navraag vasgestel.

(2) 'n Lys ooreenkomstig paragraaf (b) van sub-artikel (1) deur 'n besproeiingsraad opgestel, neem die plek in van enige voorlopige lys tevore volgens paragraaf (a) van daardie sub-artikel deur die direkteur opgestel.

(3) 'n Besproeiingsraad moet van tyd tot tyd op die by regulasie voorgeskrewe wyse die ooreenkomstig paragraaf (b) van sub-artikel (1) deur hom opgestelde lys hersien: Met dien verstande dat wanneer die grense van 'n besproeiingsdistrik verander is, of 'n besproeiingsdistrik met 'n ander besproeiingsdistrik saamgesmelt is of 'n gedeelte van 'n besproeiingsdistrik as 'n nuwe besproeiingsdistrik ingestel is, nuwe lys te ten opsigte van die nuwe besproeiingsdistrik en van die oorblywende gedeelte van die besproeiingsdistrik waarvan bedoelde nuwe besproeiingsdistrik deel uitgemaak het, onverwyld ooreenkomstig die bepalings van bedoelde paragraaf opgestel moet word: Met dien verstande voorts dat, indien 'n besproeiingsraad aan die Regering geld skuld in verband met enige lening of voorskot wat die raad van die Regering verkry het, geen verandering aan die besonderhede volgens sub-paragraaf (ii) van daardie paragraaf in bedoelde lys opgeneem, aangebring mag word nie behalwe met toestemming van die Minister.

(4) Wanneer 'n besproeiingsraad ingevolge hierdie artikel 'n lys opgestel of hersien het, moet hy 'n afskrif daarvan stuur aan die departement en aan die registrateur van aktes in bevel van die registrasiekantoor van aktes waarin die titelbewys van die grond in die lys opgeneem, geregistreer is.

(5) 'n Besproeiingsraad kan op aansoek van 'n eienaar van 'n stuk grond wat kragtens hierdie artikel ingelys is, en op die bedinge en voorwaardes wat daardie raad bepaal, toelaat dat die water ten opsigte van daardie grond beskikbaar op enige ander stuk grond in sy besproeiingsdistrik gebruik word.

(6) Indien die Minister enige van of al die bevoegdhede rakende die beheer, bestuur of administrasie van 'n Staatswaterwerk kragtens artikel *nege-en-sestig* aan 'n besproeiingsraad opgedra het, en 'n lys ten opsigte van daardie Staatswaterwerk volgens sub-artikel (7) van artikel *drie-en-sestig* opgestel is, word daardie lys vir alle doeleindes geag die lys van die besproeiingsdistrik van bedoelde raad te wees vir daardie gedeelte van bedoelde distrik wat ingevolge artikel *nege-en-vyftig* tot 'n Staatswaterbeheergebied verklaar is, en is die bepalings van hierdie artikel nie ten opsigte van daardie gedeelte van bedoelde besproeiingsdistrik van toepassing nie.

(7) 'n Lys wat volgens hierdie artikel opgestel of hersien is, word deur die sekretaris van die betrokke besproeiingsraad gehou en kan op alle redelike tye gratis deur enige belanghebbende ingesien word.

- (b) Every irrigation board shall prepare in manner prescribed by regulation a schedule of rateable areas in respect of its irrigation district, setting forth—
- (i) the particulars described in sub-paragraphs (i) to (iv) of paragraph (a); and
 - (ii) where applicable the extent of the land forming part of every piece of land referred to in the said sub-paragraphs in respect of which water may be supplied by the board from any water works owned or controlled by the board and which will be rateable, and, in the case of a board to which the powers referred to in paragraph (f) or (g) of sub-section (1) of section *eighty-nine* have been assigned, the extent of the land forming part of every piece of land riparian to the public streams in relation to which the said powers have been assigned to the board, which is irrigated by means of water from water works belonging to the owner of such piece of land and which will be rateable: Provided that, in fixing such lastmentioned extent, the board shall have regard to the share or volume of water of the aforesaid public streams which the owner of the land has a right to use thereon, and to the number of morgen which could ordinarily and with due precaution against waste be efficiently and beneficially irrigated in the course of a year by that share or volume, irrespective of the number of morgen actually irrigated, or if such extent cannot be so fixed, the average number of morgen annually irrigated on the said piece of land from the said public streams as ascertained by measurement or enquiry.
- (2) A schedule prepared by an irrigation board in accordance with paragraph (b) of sub-section (1), shall take the place of any preliminary schedule previously prepared by the director in terms of paragraph (a) of that sub-section.
- (3) An irrigation board shall in manner prescribed by regulation from time to time revise the schedule prepared by it in terms of paragraph (b) of sub-section (1): Provided that, whenever the boundaries of an irrigation district have been altered, or an irrigation district has been combined with another irrigation district, or any portion of an irrigation district has been constituted as a new irrigation district, new schedules in respect of the new irrigation district and of the remainder of the irrigation district of which such new irrigation district formed a part, shall forthwith be prepared in accordance with the provisions of the said paragraph: Provided further that if an irrigation board owes any money to the Government in connection with any loan or advance which it has received from the Government, no alteration shall be made to any of the particulars included in the said schedule in terms of sub-paragraph (ii) of the said paragraph without the consent of the Minister.
- (4) Whenever an irrigation board has prepared or revised a schedule under this section, it shall transmit a copy thereof to the department and to the registrar of deeds in charge of the deeds registry in which the title to the land scheduled is registered.
- (5) An irrigation board may, on the application of an owner of any piece of land scheduled under this section, and on such terms and conditions as it may stipulate, permit the use of the water available in respect of that land upon any other piece of land in its irrigation district.
- (6) If the Minister has delegated all or any of the powers of control, operation or administration of a Government water work to an irrigation board in terms of section *sixty-nine*, and a schedule has been prepared in respect of such Government water work in terms of sub-section (7) of section *sixty-three*, such schedule shall for all purposes be deemed to be the schedule of the irrigation district of such board for that portion of the said district which has under section *fifty-nine* been declared to be a Government water control area and the provisions of this section shall not apply in respect of the said portion of such irrigation district.
- (7) A schedule prepared or revised under this section shall be kept by the secretary of the irrigation board concerned and may be inspected free of charge at any reasonable time by any person interested.

(8) Die bepalings van paragrafe (a) en (b) van sub-artikel (8) en sub-artikels (9) en (10) van artikel *drie-en-sestig* is *mutatis mutandis* van toepassing met betrekking tot die verskaffing van water van waterwerke wat aan 'n besproeiingsraad behoort vir gebruik vir besproeiingsdoeleindes op grond wat kragtens sub-paragraaf (v) van paragraaf (a) of sub-paragraaf (ii) van paragraaf (b) van sub-artikel (1) van hierdie artikel in 'n lys opgeneem is.

Wersaamhede,
bevoegdheid en
pligte van 'n
besproeiingsraad.

89. (1) Die Minister kan by kennisgewing in die *Staatskoerant* en skriftelike kennisgewing aan die raad van 'n besproeiingsdistrik, aan daardie raad die werksaamhede, bevoegdheid of pligte toewys wat hy goedvind waarby die raad in staat gestel of gelas word—

- (a) om die waterbronne van enige openbare stroom in daardie besproeiingsdistrik te beskerm;
- (b) om die verspilling van die water van 'n openbare stroom in daardie distrik te voorkom;
- (c) om die lekkasie of stroming van openbare water van die oppervlakte na ondergrondse kanale te voorkom;
- (d) om die onwettige uitneem of opgaring van openbare water of ondergrondse water te voorkom, of om enige obstruksie wat wederregtelik in 'n openbare stroom aangebring is, te laat verwyder, en om enige wederregtelike handeling te verhoed wat bereken is om die hoeveelheid water in enige gedeelte van die openbare stroom te verminder;
- (e) om algemene toesig uit te oefen oor alle openbare strome binne bedoelde besproeiingsdistrik en om enige sodanige stroom te laat skoonmaak of dieper, breër of reguit te laat maak, of na sy vorige bedding te laat terugvoer (in die geval van 'n stroom wat sy loop verander het) of andersins te laat verbeter wanneer dit nodig of dienstig blyk om dit te doen;
- (f) om ondersoek te doen na en aantekening te hou van die hoeveelheid van of aandeel in water wat op verskillende vloeistadiums in enigeen van of al die openbare strome in die besproeiingsdistrik deur elke persoon wat regte ten opsigte van daardie water het, gebruik mag word, en die tye waarop daardie hoeveelheid of aandeel geneem kan word;
- (g) om met inagneming van bestaande regte toesig te hou oor en die distribusie en gebruik te reël van die water uit enigeen van of al die openbare strome in die besproeiingsdistrik, en om vir daardie doel die toestelle op te rig en in stand te hou om die vloei van daardie water te meet en te verdeel of om die uitkering daarvan te beheer, wat 'n waterhof mag gelas het of wat die raad by ontstentenis van so 'n lasgewing nodig ag, en om oor die algemeen oor die opgaring, uitkering en gebruik van water in openbare strome binne bedoelde besproeiingsdistrik toesig te hou;
- (h) om die waterwerke wat vir die dreinerings van grond in die besproeiingsdistrik of vir die behoorlike besproeiing van enige van die volgens sub-paragraaf (ii) van paragraaf (b) van sub-artikel (1) van artikel *agt-en-tagtig* ingelyste gebiede nodig geag word, en enige ander werke wat bedoelde raad vir die beskerming en bewaring van daardie waterwerke nodig ag, te bou, aan te koop of op ander wyse aan te skaf en te onderhou;
- (i) om enige Staatswaterwerk te beheer, te bestuur, te administreer of in stand te hou, en ooreenkomstig artikel *nege-en-sestig* water daaruit te voorsien, te distribueer of te beheer, sonder afbreuk aan die algemeenheid van hierdie bepaling en aan die bedinge en voorwaardes wat die Minister kragtens daardie artikel mag opleë, deur enigiets in voorgaande paragrafe vervat;
- (j) om onderworpe aan die bepalings van hierdie Wet water wat onder die beheer van so 'n besproeiingsraad is aan 'n plaaslike bestuur of ander persoon, met inbegrip van 'n Staatsdepartement, die Suid-Afrikaanse Spoorweg- en Hawensadministrasie en 'n provinsiale administrasie, vir stedelike of nywerheidsdoeleindes te voorsien.

(2) 'n Besproeiingsraad moet van tyd tot tyd op las van die Minister sodanige versekeringskontrakte aangaan teen verliese, skade, risiko's of verpligtings wat die raad mag oploep, as wat die Minister mag gelas.

(3) Wanneer 'n besproeiingsraad kragtens paragraaf (h) van sub-artikel (1) waterwerke gebou of aangeskaf het, moet hy,

(8) The provisions of paragraphs (a) and (b) of sub-section (8) and sub-sections (9) and (10) of section *sixty-three* shall *mutatis mutandis* apply in relation to the supply of water from water works belonging to an irrigation board for use for irrigation purposes on land scheduled under sub-paragraph (v) of paragraph (a) or sub-paragraph (ii) of paragraph (b) of sub-section (1) of this section.

89. (1) The Minister may, by notice in the *Gazette* and notice in writing to the board of an irrigation district assign to that board such functions, powers or duties as he may deem fit enabling or requiring it—

Functions, powers and duties of an irrigation board.

- (a) to protect the sources of the water of any public stream in the said irrigation district;
- (b) to prevent the waste of the water of any public stream in the said district;
- (c) to prevent the leakage or flow of any public water from the surface into subterranean channels;
- (d) to prevent any unlawful abstraction or storage of public water or subterranean water or to cause to be removed any obstruction unlawfully placed in a public stream, and to prevent any unlawful act which is calculated to diminish the quantity of water in any part of the public stream;
- (e) to exercise general supervision over all public streams within the said irrigation district and to cause any such stream to be cleansed, deepened, widened, straightened, restored to its former channel (in the case of a stream which has changed its course) or otherwise improved whenever it appears necessary or expedient to do so;
- (f) to investigate and record the quantity or share of water which, at different stages of flow in all or any public streams in the irrigation district, every person having any rights in respect of such water is entitled to use and the times at which such quantity or share may be taken;
- (g) subject to any existing right, to supervise and regulate the distribution and use of the water of all or any of the public streams in the irrigation district and for that purpose to erect and maintain such devices for measuring and dividing the flow of the said water or controlling diversion thereof as may have been ordered by a water court or, in the absence of any such order, as the said board may consider necessary, and generally to supervise within the said irrigation district the storage, diversion and use of water in public streams;
- (h) to construct, purchase or otherwise acquire and to maintain such water works as may be considered necessary for the drainage of land in the irrigation district or for the proper irrigation of any of the areas scheduled under sub-paragraph (ii) of paragraph (b) of sub-section (1) of section *eighty-eight*, and any other works which such board may deem necessary for the protection and preservation of such water works;
- (i) to control, operate, administer or maintain any Government water work and to control, supply or distribute water therefrom in accordance with section *sixty-nine*, the generality of this provision and of the terms and conditions which the Minister may impose in terms of the said section not being limited by anything contained in the preceding paragraphs;
- (j) subject to the provisions of this Act, to supply any water under the control of such irrigation board to any local authority or other person, including any department of State, the South African Railways and Harbours Administration and any provincial administration, for urban or industrial purposes.

(2) An irrigation board shall from time to time on the directions of the Minister enter into such contracts of insurance against any losses, damage, risks or liabilities which the board may incur, as the Minister may require.

(3) Whenever an irrigation board has constructed or acquired water works in terms of paragraph (h) of sub-section (1), it

behoudens die bepalinge van sub-artikel (4), die stappe doen wat hy nodig ag om te verseker dat daar vir gebruik op elke stuk grond wat in die volgens paragraaf (b) van sub-artikel (1) van artikel *agt-en-tagtig* deur bedoelde raad opgestelde lys ingesluit is, en ten opsigte waarvan 'n oppervlakte ingevolge sub-paragraaf (ii) van daardie paragraaf ingelys is, en op elke stuk grond volgens sub-artikel (7) van artikel *drie-en-sestig* in 'n lys opgeneem, wat geregtig is om water van genoemde waterwerke te ontvang, 'n hoeveelheid water wat deel uitmaak van die uit bedoelde werke vir landboudoeleindes beskikbare water gelewer word wat sover doenlik tot die totale hoeveelheid water vir sodanige doeleindes beskikbaar, in dieselfde verhouding staan as die verhouding waarin bedoelde oppervlakte tot die hele aldus ingelyste oppervlakte staan: Met dien verstande dat indien sodanige grond onderverdeel word en so 'n onderdeel daarvan aan iemand anders verkoop of andersins van die hand gesit word, die persoon wat daardie onderdeel verkoop of van die hand sit, die voorsiening moet maak wat volgens die raad se oordeel nodig mag wees om te verseker dat op bedoelde onderdeel die hoeveelheid water waarop dit geregtig mag wees, gelewer word.

(4) Indien 'n waterwerk wat in private besit is binne 'n besproeiingsdistrik deur een eienaar of 'n groep eienaars van aanliggende hoewes gebruik word om water te lei wat ingevolge hierdie artikel deur die raad van bedoelde distrik aan die grond wat aan daardie eienaar of groep eienaars behoort, voorsien word, kan bedoelde raad die water waarop die betrokke grond geregtig is in bedoelde waterwerk lewer vir gebruik deur daardie eienaar of, al na die geval, vir onderlinge verdeling deur bedoelde eienaars volgens aandele na verhouding van die omvang van elke eienaar se grond wat op bedoelde water geregtig is of, al na die geval, ooreenkomstig bestaande regte, of kan die raad self die verdeling van daardie water onder bedoelde groep eienaars onderneem en in so 'n geval met betrekking tot daardie waterwerk enige bevoegdheid uitoefen wat kragtens paragraaf (b) of (c) van sub-artikel (5) met betrekking tot 'n in daardie paragrawe bedoelde waterwerk deur hom uitgeoefen kan word.

(5) Indien 'n in sub-artikel (3) bedoelde besproeiingsraad van die bedding van 'n openbare stroom of 'n natuurlike bedding binne sy besproeiingsdistrik gebruik maak om water uit die waterwerke in daardie sub-artikel bedoel te lei ten einde daardie water aan die daartoe geregtigde persone te voorsien of te lewer—

- (a) het bedoelde raad terwyl die water gelei word, en ondanks enige bestaande reg, die uitsluitlike beheer van alle water wat aldus in die bedding van daardie openbare stroom of in daardie natuurlike bedding gelei word, asook van alle ander water wat tydens die leiding in daardie stroom of natuurlike bedding vloei;
- (b) kan bedoelde raad oor sodanige gedeeltes van waterwerke in private besit binne die besproeiingsdistrik gebou vir die uitneem of leiding van water uit daardie openbare stroom of natuurlike bedding, beheer uitoefen soos hy van tyd tot tyd nodig ag ten einde behoorlike verdeling van die in sub-artikel (3) bedoelde water te bewerkstellig, en kan hy, met skriftelike toestemming van die Minister, en na skriftelike kennisgewing aan die betrokke eienaar, vir die tydperk deur die Minister bepaal wanneer hy die toestemming verleen, die instandhouding en beheer van sodanige waterwerke in private besit oorneem indien die water aldus deur middel van daardie waterwerke uitgeneem of gelei, volgens sy oordeel nie op die by sub-artikel (4) voorgeskrewe wyse aan die daarop geregtigde persone gelewer word nie;
- (c) kan bedoelde raad—
 - (i) na skriftelike kennisgewing aan die eienaar van sodanige waterwerke in private besit, die addisionele waterwerke bou of die veranderings of herstelwerk aan die bestaande waterwerke aanbring; of
 - (ii) so 'n eienaar skriftelik aansê om die addisionele werke te bou of die veranderings of herstelwerk aan bestaande werke aan te bring,

wat volgens die raad se oordeel nodig mag wees om die water deur middel van sodanige waterwerke uitgeneem of gelei, behoorlik te meet en te reël, en indien, in die geval van 'n kennisgewing aan 'n eienaar kragtens sub-paragraaf (ii), so 'n eienaar in gebreke bly om bedoelde werke binne ses maande vanaf die datum van sodanige kennisgewing tot bevrediging van daardie raad te bou, te verander of te herstel, kan die raad dit

shall, subject to the provisions of sub-section (4), take such steps as it may deem necessary to ensure that there is delivered for use on every piece of land which has been included in the schedule prepared by the said board in terms of paragraph (b) of sub-section (1) of section *eighty-eight*, and in respect of which an area has been scheduled under sub-paragraph (ii) of that paragraph, and on every piece of land scheduled under sub-section (7) of section *sixty-three*, which is entitled to receive water from the said water works, a quantity of water, being portion of the water available for agricultural use from such works, which, as nearly as may be practicable, bears to the whole quantity of water available for such use, the same ratio as the ratio which the said area bears to the whole area so scheduled: Provided that, if any such land is sub-divided and any such sub-divided portion is sold or otherwise disposed of to any other person, the person selling or disposing of such sub-divided portion shall make such provision as may in the opinion of the board be necessary to ensure the delivery on to such sub-divided portion of the quantity of water to which it may be entitled.

(4) If any privately owned water work within an irrigation district is used by one owner or a group of owners of contiguous holdings to convey water distributed by the board of that district in terms of this section to the land belonging to such owner or group of owners, such board may deliver the water to which the land in question is entitled into the said water work for the use of that owner or, as the case may be, for distribution by those owners amongst themselves in shares proportionate to the extent of each owner's land entitled to such water, or in accordance with existing rights, as the case may be, or may itself undertake the distribution of that water amongst such group of owners and in that event exercise in relation to such water work any of the powers which may under paragraph (b) or (c) of sub-section (5) be exercised by it in relation to any water work referred to in those paragraphs.

(5) If an irrigation board referred to in sub-section (3) uses the channel of any public stream or any natural channel within its irrigation district for the conveyance of any water from the water works referred to in the said sub-section for the purpose of supplying or distributing such water to the persons entitled thereto—

- (a) the said board shall during such conveyance, and notwithstanding any existing right, have the exclusive control of all water which is so conveyed in the channel of such public stream or in any such natural channel, together with all other water which may during such conveyance be flowing in that stream or natural channel;
- (b) the said board may exercise control over such portions of privately owned water works constructed within the irrigation district for the purpose of abstracting or conveying water from such public stream or natural channel, as it may from time to time deem necessary for the purpose of effecting a proper distribution of the water referred to in sub-section (3), and may, with the written consent of the Minister and after notice in writing to the owner concerned, take over for such period as the Minister may determine when granting such consent, the maintenance and control of any such privately owned water works, if in its opinion the water so abstracted or conveyed by means of such works is not being distributed among the persons entitled thereto in the manner provided in sub-section (4);
- (c) the said board may—
 - (i) after giving notice in writing to the owner of any such privately owned water works, construct such additional works, or make such adjustments or repairs to the existing water works; or
 - (ii) give written notification to such owner to construct such additional works or to make such adjustments or repairs to existing works,
 as may in the opinion of the board, be necessary for the proper measurement and regulation of the water abstracted or conveyed by such water works, and, if in the case of a notification to an owner under sub-paragraph (ii), such owner fails to construct, adjust or repair such works to the satisfaction of the said board within six months of the date of such notification,

op koste van daardie eienaar bou, verander of herstel en die koste aangegaan by aksie in 'n bevoegde hof op daardie eienaar verhaal;

- (d) (i) mag niemand langs bedoelde openbare stroom of natuurlike bedding nuwe waterwerke bou of 'n bestaande waterwerk wesenlik verander of vergroot om water uit daardie stroom of natuurlike bedding uit te neem of te lei nie (uitgesonderd water waarop hy ingevolge 'n bevel, toekenning, beslissing, vergunning, magtiging of verdeling uitgevaardig of gedoen deur 'n bevoegde hof, geregig is), behalwe met skriftelike toestemming van bedoelde besproeiingsraad;
- (ii) word geen beslissing van 'n waterhof op 'n aansoek ingevolge sub-artikel (1) van artikel *agt-en-negentig* om verligting in verband met 'n beslissing van 'n besproeiingsraad kragtens sub-paragraaf (i) gegee, so uitgelê dat dit aan iemand die reg verleen om uit daardie openbare stroom of natuurlike bedding ander water te neem as water waarop hy uit hoofde van 'n bevel, toekenning, beslissing, vergunning, magtiging of verdeling deur 'n bevoegde hof uitgevaardig of gedoen, geregig is nie.

(6) Iemand wat die bepalinge van sub-paragraaf (i) van paragraaf (d) van sub-artikel (5) oortree, is aan 'n misdryf skuldig.

(7) Wanneer die in paragraaf (g) van sub-artikel (1) bedoelde bevoegdhede aan 'n besproeiingsraad toegewys is—

- (a) is die bepalinge van sub-artikel (4) en paragrawe (b), (c) en (d) van sub-artikel (5) *mutatis mutandis* van toepassing met betrekking tot enige openbare stroom binne die besproeiingsdistrik van daardie raad; en
- (b) kan bedoelde raad met toestemming vooraf van die Minister, enigiemand gelas om die werk uit te voer en die herstelwerk te doen met betrekking tot waterwerke wat aan hom behoort of onder sy beheer is, wat vir die beskerming van lewens of die openbare veiligheid nodig mag wees, en by versuim om aan so 'n bevel te voldoen, kan die raad self die werk laat uitvoer of die herstelwerk laat doen en die koste by aksie in 'n bevoegde hof op bedoelde persoon verhaal.

(8) 'n Besproeiingsraad kan op die grond wat bedien word deur enige waterwerk wat hy kragtens paragraaf (b) van sub-artikel (5) oorgeneem het, 'n belasting hef wat voldoende is om die koste van die instandhouding en beheer van daardie werk te dek, en so 'n belasting is bykomstig by enige belasting kragtens paragraaf (a) van sub-artikel (1) van artikel *negentig* deur daardie raad gehef, en nie ter vervanging daarvan nie.

(9) 'n Besproeiingsraad is nie vir die betaling van vergoeding aan enige eienaar van grond ten opsigte van die bou deur daardie raad op bedoelde eienaar se grond van enige in paragraaf (c) van sub-artikel (5) bedoelde werke aanspreeklik nie.

(10) Die bepalinge van hierdie artikel word nie geag 'n besproeiingsraad te magtig om die verdeling en gebruik van water binne die regsgebied van 'n plaaslike bestuur (uitgesonderd 'n afdelingsraad) in paragraaf (a) van die woordbepaling van „plaaslike bestuur” in artikel *een* bedoel, te reël nie, tensy daardie plaaslike bestuur daartoe instem, en indien so 'n gebied binne 'n besproeiingsdistrik val, het bedoelde plaaslike bestuur in verband met die verdeling en gebruik van water al die bevoegdhede ten opsigte daarvan verleen deur die wet wat die bevoegdhede van daardie plaaslike bestuur reël: Met dien verstande dat die bepalinge van hierdie sub-artikel nie van toepassing is op 'n besproeiingsraad wat by die inwerkingtreding van hierdie Wet water in so 'n gebied verdeel nie.

Besproeiingsraad
kan belastings en
vorderings hef.

90. (1) (a) Ter bestryding van uitgawes wettig deur hom aangegaan of aangegaan te word by die verrigting van die werksaamhede, die uitoefening van die bevoegdhede en die uitvoering van die pligte ingevolge hierdie Wet aan hom opgedra of verleen, kan 'n besproeiingsraad—
- (i) belastings hef op grond wat volgens sub-artikel (7) van artikel *drie-en-sestig* of sub-paragraaf (ii) van paragraaf (b) van sub-artikel (1) van artikel *agt-en-tagtig* ingelys is of, in die geval van 'n voorlopige lys opgestel volgens paragraaf (a) van laasbedoelde sub-artikel, op grond wat volgens sub-paragraaf (v) van daardie paragraaf ingelys is, of vorderings hef vir water voorsien of gelewer ten opsigte van sodanige grond of aan enigiemand

the board may undertake such construction, adjustment or repair at the expense of the said owner and may, by action in a competent court, recover the costs incurred from such owner;

- (d) (i) no person shall construct any new or materially alter or enlarge any existing water work on any such public stream or natural channel for the purpose of abstracting or conveying water from such stream or natural channel (other than water to which he is entitled in terms of any order, award, decision, permission, authority or apportionment given or made by a competent court) without the consent in writing of the said irrigation board;
- (ii) no decision of a water court on an application under sub-section (1) of section *ninety-eight*, for relief from any decision made by an irrigation board under sub-paragraph (i), shall be construed as entitling any person to abstract from any such public stream or natural channel any water other than water to which he is entitled in terms of any order, award, decision, permission, authority or apportionment given or made by a competent court.

(6) Any person who contravenes the provisions of sub-paragraph (i) of paragraph (d) of sub-section (5) shall be guilty of an offence.

(7) Whenever the powers referred to in paragraph (g) of sub-section (1) have been assigned to an irrigation board—

- (a) the provisions of sub-section (4) and paragraphs (b), (c) and (d) of sub-section (5) shall apply *mutatis mutandis* in relation to any public stream within the irrigation district of the said board; and
- (b) such board may, with the previous sanction of the Minister, order any person to carry out such work and execute such repairs in relation to water works belonging to him or under his control as may be necessary for the protection of life or the public safety, and, in default of compliance with any such order, itself cause the work to be carried out or the repairs to be executed and recover the cost from such person by action in a competent court.

(8) An irrigation board may levy a rate upon the land served by any water work taken over by it in terms of paragraph (b) of sub-section (5), sufficient to defray the costs of maintenance and control of such work, and such rate shall be additional to and not in substitution of any rate levied by the said board in terms of paragraph (a) of sub-section (1) of section *ninety*.

(9) An irrigation board shall not be liable for the payment of any compensation to any owner of land in respect of the construction by such board on such owner's land of any works referred to in paragraph (c) of sub-section (5).

(10) Nothing in this section contained shall be deemed to authorize an irrigation board to arrange for the distribution and use of water within the area of jurisdiction of a local authority (other than a divisional council) referred to in paragraph (a) of the definition of "local authority" in section *one*, unless such local authority consents thereto, and if any such area is included in an irrigation district, such local authority shall have all the powers as to the distribution and use of water which are conferred in respect thereof by the law regulating the powers of that local authority: Provided that the provisions of this sub-section shall not apply to any irrigation board which is, at the commencement of this Act, distributing water within any such area.

90. (1) (a) For the purpose of defraying any expenditure lawfully incurred or to be incurred by it in the carrying out of the functions, powers and duties assigned to or imposed upon it under this Act, an irrigation board may—

Irrigation board may assess rates and charges.

- (i) assess rates on land scheduled in terms of sub-section (7) of section *sixty-three* or sub-paragraph (ii) of paragraph (b) of sub-section (1) of section *eighty-eight* or, in the case of a preliminary schedule prepared under paragraph (a) of the latter sub-section, on land scheduled in terms of sub-paragraph (v) of that paragraph, or assess charges for water supplied or distributed in respect

- uit waterwerke wat aan bedoelde raad behoort, of sodanige belastings sowel as sodanige vorderings hef;
- (ii) belastings hef op enige in paragraaf (b) van sub-artikel (1) van artikel *drie-en-tagtig* bedoelde grond binne sy besproeiingsdistrik, en die belastings en vorderings aldus gehef op die eienaars van bedoelde grond of op iemand aan wie water aldus voorsien word, na gelang van die geval, verhaal.
- (b) Indien 'n besproeiingsraad belastings hef, moet daardie belastings jaarliks deur bedoelde raad gehef word volgens 'n eenvormige bedrag per morg van die betrokke grond: Met dien verstande dat bedoelde raad onder spesiale omstandighede, en met toestemming van die Minister op en ten opsigte van enige grond belastings kan hef teen ander tariewe as die tariewe ten opsigte van ander grond of, benewens die belasting jaarliks gehef, 'n spesiale belasting kan hef.
- (2) Wanneer 'n besproeiingsraad ingevolge paragraaf (j) van sub-artikel (1) van artikel *nege-en-tagtig* gemagtig is om water te voorsien, kan hy van tyd tot tyd vir water aldus voorsien die vorderings hef wat die Minister mag bepaal, en die vorderings verhaal op die persone aan wie daardie water aldus voorsien word.
- (3) Die bepalinge van hierdie artikel word nie so uitgelê dat dit 'n besproeiingsraad belet om met een of meer eienaars van grond 'n ooreenkoms te tref om teen sekuriteit van die belastings wat die raad kragtens paragraaf (a) van sub-artikel (1) mag hef, 'n lening aan te gaan ten einde 'n waterwerk vir die uitsluitlike voordeel van bedoelde eienaar of eienaars te bou, en om op die betrokke grond 'n addisionele belasting te hef voldoende om die rente en ander jaarlikse koste ten opsigte van sodanige lening betaalbaar, te bestry nie.

Besproeiingsraad moet belastingslyste opstel.

91. (1) Wanneer 'n besproeiingsraad volgens sub-artikel (1) van artikel *negentig* 'n belasting gehef het, laat daardie raad 'n belastingslys opstel waarin uiteengesit word—

- (a) die naam van iedere persoon aanspreeklik vir die betaling van belastings;
- (b) 'n beskrywing van die stuk grond ten opsigte waarvan die belasting gehef word;
- (c) die aantal morg op elke stuk grond wat volgens sub-artikel (7) van artikel *drie-en-sestig* of sub-paragraaf (v) van paragraaf (a) van sub-artikel (1) van artikel *agt-en-tagtig* of sub-paragraaf (ii) van paragraaf (b) van laasgenoemde sub-artikel ingelys is;
- (d) die bedrag van die belasting gehef; en
- (e) die datum of datums waarop betaling verskuldig is en die bedrag op iedere sodanige datum verskuldig.

(2) Een afskrif van bedoelde belastingslys moet op alle redelike tye in die kantoor van die sekretaris van die betrokke besproeiingsraad vir insae deur enige belanghebbende beskikbaar wees, en een afskrif daarvan moet deur bedoelde raad aan die departement gestuur word.

Betaling en verhaal van belastings of vorderings deur 'n besproeiingsraad gehef.

92. (1) (a) 'n Belasting kragtens sub-artikel (1) van artikel *negentig* deur 'n besproeiingsraad gehef, is verskuldig en betaalbaar by die kantoor van daardie raad op die datum of datums volgens paragraaf (e) van sub-artikel (1) van artikel *een-en-negentig* op die belastingslys aangewys, en enige vordering kragtens sub-artikel (2) van artikel *negentig* deur so 'n raad gehef, is verskuldig en betaalbaar op 'n datum deur die raad bepaal wanneer bedoelde vordering aldus gehef word.

(b) Indien die bedrag verskuldig en betaalbaar deur 'n eienaar of ander persoon wat vir die betaling van daardie bedrag aanspreeklik is, nie binne een maand na die vir betaling vasgestelde datum betaal is nie, kan die betrokke besproeiingsraad—

- (i) daardie bedrag sonder verdere aanvraag deur aksie in 'n bevoegde hof op bedoelde eienaar of persoon verhaal, en die hele bedrag van die belasting waarvan die verskuldigde en betaalbare bedrag deel uitmaak, word daar en dan verskuldig en betaalbaar en kan op dieselfde wyse deur bedoelde raad verhaal word; en
- (ii) deur die maatreëls wat hy goedvind, enige water wat uit 'n waterwerk onder sy beheer vloei op die grond ten opsigte waarvan daardie bedrag verskuldig en nie betaal is nie, stopsit tot tyd en wyl bedoelde bedrag betaal is, of, in die geval van 'n bedrag wat ten opsigte van 'n vordering kragtens

of such land or to any person from water works belonging to the said board, or assess both such rates and such charges;

- (ii) assess rates on any land referred to in paragraph (b) of sub-section (1) of section *eighty-three* within its irrigation district,

and may recover the rates and charges so assessed from the owners of the said land or from any person to whom water is so supplied, as the case may be.

- (b) If an irrigation board assesses rates, such rates shall be assessed annually by such board at a uniform sum per morgen of the land affected: Provided that the said board may, under special circumstances and with the consent of the Minister, levy rates upon and in respect of any land at rates different from the rates in respect of any other land or levy a special rate in addition to the rate assessed annually.

(2) Whenever an irrigation board is empowered to supply water in terms of paragraph (j) of sub-section (1) of section *eighty-nine*, it may from time to time assess such charges as the Minister may determine for water so supplied and may recover such charges from the persons to whom such water is so supplied.

(3) Nothing in this section contained shall be construed as preventing an irrigation board from entering into an agreement with one or more owners of land for raising a loan on the security of the rates which it may assess in terms of paragraph (a) of sub-section (1) for the purpose of constructing a water work for the sole benefit of such owner or owners, and from levying on the land affected an additional rate sufficient to cover the interest and other annual charges payable in respect of such loan.

91. (1) Whenever an irrigation board has assessed a rate in terms of sub-section (1) of section *ninety*, such board shall cause to be prepared an assessment roll setting forth—

Irrigation board to prepare assessment rolls.

- (a) the name of each person liable to pay rates;
- (b) a description of the piece of land in respect of which the rate is assessed;
- (c) the number of morgen on each piece of land which is scheduled in terms of sub-section (7) of section *sixty-three* or sub-paragraph (v) of paragraph (a) of sub-section (1) of section *eighty-eight* or sub-paragraph (ii) of paragraph (b) of the last mentioned sub-section;
- (d) the amount of the rate assessed; and
- (e) the date or dates upon which payment is due and the amount due on each such date.

(2) One copy of such assessment roll shall lie in the office of the secretary of the irrigation board concerned and shall be open to inspection at all reasonable times by any interested person, and one copy thereof shall be transmitted by the said board to the department.

92. (1) (a) A rate assessed by an irrigation board under sub-section (1) of section *ninety* shall be due and payable at the office of such board on the date or dates shown on the assessment roll in terms of paragraph (e) of sub-section (1) of section *ninety-one*, and any charge assessed by such a board in terms of sub-section (2) of section *ninety* shall be due and payable on a date to be fixed by the board when the said charge is so assessed.

Payment and recovery of rates or charges assessed by an irrigation board.

- (b) If within one month after the date fixed for payment, the amount due and payable by any owner or other person liable to pay such amount has not been paid the irrigation board concerned may—

- (i) without further demand, recover such amount from such owner or person by action in a competent court, and the whole of the amount of the rate of which such amount due and payable forms a part shall forthwith become due and payable and may be recovered by such board in like manner; and
- (ii) by such means as it deems fit, stop any water flowing from any water work under its control on to the land in respect of which such amount is due and unpaid until the amount is paid, or in the case of an amount due and unpaid in respect

sub-artikel (2) van artikel *negentig* gehef, verskuldig en nie betaal is nie, die voorsiening van water aan die betrokke persoon staak totdat die bedrag betaal is, en bedoelde raad is onder geen verpligting om nadat die verskuldigde bedrag betaal is water waarvan die voorsiening aldus gestaak is, te voorsien of om vergoeding vir verlies as gevolg van die staking van die voorsiening van bedoelde water deur iemand gely, te betaal nie.

(2) Geen staking ingevolge sub-paragraaf (ii) van paragraaf (b) van sub-artikel (1), van die voorsiening van water aan die grond of persoon daarin bedoel, onthef enigemand van aanspreeklikheid ten opsigte van die tydperk van sodanige staking vir belastings of vorderings deur die betrokke besproeiingsraad kragtens artikel *negentig* gehef nie.

(3) (a) Belastings deur 'n besproeiingsraad gehef, is 'n las op die grond ten opsigte waarvan dit gehef is, en iemand wat die eienaar word van daardie grond is aanspreeklik vir sodanige belastings wat op die tydstop waarop hy eienaar word, nie betaal is nie.

(b) Geen oordrag van grond ten opsigte waarvan belastings deur so 'n raad gehef kan word, word deur die registrateur van aktes in bevel van die registrasiekantoor van aktes waarin die titelbewys van daardie grond geregistreer is, gegee nie, totdat aan daardie registrateur 'n deur die sekretaris van bedoelde raad ondertekende sertifikaat oorgelê is waarin vermeld word dat alle belastings op daardie grond gehef of vorderings deur die eienaar van bedoelde grond aan daardie raad verskuldig, betaal is: Met dien verstande dat die bepalinge van hierdie sub-artikel nie geld nie tensy bedoelde raad aan daardie registrateur 'n afskrif van die lys van belasbare oppervlaktes in sy besproeiingsdistrik ooreenkomstig sub-artikel (4) van artikel *agt-en-tagtig* verstrek het, of, waar so 'n afskrif wel verstrek is, tensy die besonderhede betreffende die betrokke grond daarop aangegee, genoegsaam uiteengesit is om bedoelde registrateur in staat te stel om daardie grond geredelik in sy registers te identifiseer.

(4) Indien die eienaar van grond waarop of ten opsigte waarvan belastings deur 'n besproeiingsraad gehef is, insolvent raak, geniet die bedrag aan belastings of vorderings wat op die datum waarop daardie eienaar insolvent raak, nie betaal is nie, behoudens die bepalinge van sub-artikel (1) van artikel *nege-en-tagtig* van die Insolvensiewet, 1936 (Wet No. 24 van 1936), voorkeur bo enige geregistreerde verbandakte.

Besproeiingsraad kan lenings aan gaan.

93. (1) 'n Besproeiingsraad kan op die wyse by regulasie voorgeskryf by wyse van lening geld opneem wat hy nodig het ten einde die werksaamhede te verrig of bevoegdhede of pligte uit te voer wat kragtens sub-artikel (1) van artikel *nege-en-tagtig* aan hom toegewys of opgelê is: Met dien verstande dat so 'n lening nie anders as ooreenkomstig die bepalinge van Hoofstuk IX aangegaan mag word nie, tensy die goedkeuring van die Minister verkry is.

(2) Wanneer 'n besproeiingsraad voornemens is om 'n lening aan te gaan, moet van sy voorneme om dit te doen minstens een-en-twintig dae voor die datum van die vergadering van daardie raad waarop die voorstel oorweeg sal word, skriftelike kennisgewing met vermelding van die besonderhede van die voorstel aan elke lid van die raad gegee word, en geen lening mag aangegaan word nie behalwe ingevolge 'n besluit deur die raad geneem op 'n vergadering waarop minstens twee-derdes van die lede daarvan aanwesig is.

Besproeiingsraad kan grond, serwitute, ens., onteien.

94. (1) 'n Besproeiingsraad kan, met toestemming van die Minister, en ten einde enige werksaamheid te verrig of bevoegdheid uit te oefen of plig te vervul wat ingevolge hierdie Wet aan hom toegewys of opgelê is, binne sy besproeiingsdistrik grond of 'n serwituut oor grond of 'n bestaande reg onteien of enige stof of materiaal op grond toeëien of grond of 'n waterwerk tydelik gebruik soos hy nodig ag: Met dien verstande dat die bepalinge van hierdie sub-artikel nie op grond wat aan die Regering (insluitende die Suid-Afrikaanse Spoorweg- en Hawensadministrasie of enige provinsiale administrasie) of die Suid-Afrikaanse Naturellestuif, ingestel deur sub-artikel (1) van artikel *vier* van die Naturellestuif en -grond Wet, 1936 (Wet No. 18 van 1936), behoort, of op werke of ondernemings wat deur of namens die Staat of die Elektriesiteitsvoorsieningskommissie ingestel deur sub-artikel (1) van artikel *een* van die Elektriesiteit Wet, 1922 (Wet No. 42 van 1922), gedryf word, van toepassing is nie.

of a charge assessed in terms of sub-section (2) of section *ninety*, suspend the supply of water to the person concerned until the amount has been paid, and the said board shall not be obliged after the amount due has been paid, to supply any water so stopped or to pay compensation for any loss sustained by any person consequent upon the stopping of the said water.

(2) No cessation under sub-paragraph (ii) of paragraph (b) of sub-section (1), of the supply of water to the land or person referred to therein shall relieve any person from any liability in respect of the period of such cessation for any rates or charges assessed by the irrigation board in question in terms of section *ninety*.

(3) (a) Rates assessed by an irrigation board shall be a charge upon the land in respect of which they have been assessed, and any person who becomes the owner of any such land shall be liable for any such rates which remain unpaid at the time when he becomes the owner.

(b) No transfer of any land in respect of which rates may be assessed by such a board shall be passed by the registrar of deeds in charge of the deeds registry in which the title to such land is registered, until a certificate signed by the secretary of such board has been produced to such registrar stating that all rates assessed on such land or charges due to that board by the owner of such land have been paid: Provided that the provisions of this sub-section shall not apply unless the said board has supplied the said registrar with a copy of the schedule of rateable areas of its irrigation district, in accordance with sub-section (4) of section *eighty-eight*, or, where a copy has been so supplied, unless the particulars shown therein relating to the land in question are sufficiently set forth to enable the said registrar readily to identify such land in his registers.

(4) If the owner of any land upon or in respect of which rates have been levied by an irrigation board becomes insolvent, the amount of the rates or charges unpaid at the date upon which such owner becomes insolvent shall, subject to the provisions of sub-section (1) of section *eighty-nine* of the Insolvency Act, 1936 (Act No. 24 of 1936), rank preferent to any registered mortgage.

93. (1) An irrigation board may, in manner prescribed by regulation, raise by way of loan any money required by it for the purpose of carrying out any of the functions, powers or duties assigned to or imposed upon it under sub-section (1) of section *eighty-nine*: Provided that no such loan shall be raised otherwise than in accordance with the provisions of Chapter IX, unless the approval of the Minister has been obtained.

Irrigation board may raise loans.

(2) Whenever an irrigation board proposes to raise a loan notice in writing of its intention to do so, setting forth the details of the proposal, shall be given to every member of such board not less than twenty-one days before the date of the meeting of the board at which such proposal is to be considered, and no loan shall be raised except upon a resolution of the board passed at a meeting at which not less than two-thirds of the members thereof are present.

94. (1) An irrigation board may, with the consent of the Minister, and for the purpose of exercising any function or power or carrying out any duty assigned to or imposed upon it by this Act, expropriate any land or servitude over land or any existing right or appropriate any substance or material on any land or temporarily use any land or any water work within its irrigation district as it may consider necessary: Provided that nothing in this sub-section contained shall apply to land belonging to the Government, including the South African Railways and Harbours Administration or any provincial administration, or the South African Native Trust constituted in terms of sub-section (1) of section *four* of the Native Trust and Land Act, 1936 (Act No. 18 of 1936), or to any works or undertakings conducted by or on behalf of the State or the Electricity Supply Commission constituted in terms of sub-section (1) of section *one* of the Electricity Act, 1922 (Act No. 42 of 1922.)

Irrigation board may expropriate land, servitudes, etc.

(2) Die bepalings van sub-artikels (2) tot en met (9) van artikel sestig is *mutatis mutandis* in verband met so 'n onteining van toepassing.

Bevoegdheid van Minister en direkteur om oor sake van 'n besproeiingsraad toesig te hou.

95. (1) 'n Deur die direkteur daartoe aangewese amptenaar van die departement is geregtig om enige vergadering van 'n besproeiingsraad by te woon, maar nie om daarop te stem nie, en om so 'n raad of 'n komitee daarvan met advies by te staan in verband met enige aangeleentheid rakende vraagstukke wat deur daardie raad of komitee bespreek of oorweeg word.

(2) (a) Die direkteur kan van tyd tot tyd 'n amptenaar van die departement aanstel om die grond of waterwerke wat aan 'n besproeiingsraad behoort, of onder sy beheer is, met inbegrip van grond ten opsigte waarvan uit werke onder beheer van daardie raad water voorsien word, te inspekteer of om die sake van so 'n raad te ondersoek, en indien die Minister na oorweging van 'n verslag deur so 'n amptenaar gedoen, oortuig is dat bedoelde werke nie op bevredigende wyse uitgevoer of in stand gehou is of word nie, of dat die raad versuim het om enige van die werksaamhede, bevoegdhede en pligte kragtens hierdie Wet of daarkragtens uitgevaardigde regulasies of 'n ander wet aan hom toegewys of opgelê, te verrig of uit te oefen, of met die uitvoering of verrigting van sodanige werksaamhede, bevoegdhede en pligte agtelosig of nalatig was, of 'n bevel van 'n waterhof waarvolgens enige plig aan bedoelde raad opgelê is, nie op bevredigende wyse uitgevoer of daaraan voldoen het nie, of indien die raad te eniger tyd vir 'n tydperk van sestig dae of langer versuim het om gelde aan die Regering verskuldig en betaalbaar ten opsigte van 'n voorskot of lening deur die Regering aan hom gemaak, te betaal, kan die Minister—

- (i) bedoelde raad by skriftelike kennisgewing gelas om binne 'n in die kennisgewing vermelde tydperk die stappe daarin uiteengesit te doen; of
- (ii) die stappe wat hy nodig ag op koste van die raad laat doen, of belastings hef en verhaal en aan die raad verskuldigde bedrae invorder wat voldoende is om enige ten opsigte van so 'n voorskot of lening verskuldigde bedrae te betaal of om die koste van aldus gedane stappe te dek, tesame met alle koste verbonde aan die heffing, verhaal of invordering van belastings wat hy aldus mag hef; of
- (iii) by kennisgewing in die *Staatskoerant* en skriftelike kennisgewing aan die raad die ampstermyn van die lede van die raad beëindig verklaar en vir so 'n tydperk as wat hy goedvind die werksaamhede van die raad oorneem, of by sodanige beëindiging of te eniger tyd daarna die stappe doen wat hy vir die verkiesing van nuwe lede van die raad nodig ag.

(b) Indien die raad versuim om aan 'n lasgewing kragtens sub-paragraaf (i) van paragraaf (a) te voldoen binne die tydperk deur die Minister bepaal of binne so 'n verdere tydperk as wat hy mag vasstel, kan die Minister onverwyld die bepalings van sub-paragraaf (ii) of (iii) van daardie paragraaf toepas.

(3) Die Minister is ten opsigte van enige tydperk waarin hy ingevolge sub-paragraaf (iii) van paragraaf (a) of ingevolge paragraaf (b) van sub-artikel (2) die werksaamhede van die raad oorneem, met al die bevoegdhede, regte, bates, laste en verpligtings van die raad bekleed en belas en kan die beheer daarvan aan 'n amptenaar van die departement opdra, en het vir die doeleindes van die heffing en verhaal van belastings en die invordering van verskuldigde bedrae kragtens sub-paragraaf (ii) van paragraaf (a) van daardie sub-artikel dieselfde regte en bevoegdhede as wat in verband met die heffing en verhaal van sodanige belastings of die invordering van sodanige bedrae deur die raad, ingevolge hierdie Wet in die betrokke raad gevestig is.

(4) Die Minister kan deur aksie in 'n bevoegde hof of op so 'n ander wyse as wat hy goedvind, die koste van enige optrede deur hom kragtens sub-paragraaf (i), (ii) of (iii) van paragraaf (a) van sub-artikel (2) op die betrokke raad verhaal.

Rekenings van besproeiingsrade.

96. (1) 'n Besproeiingsraad hou op die by regulasie voorgeskrewe wyse rekenings van alle gelde deur hom ontvang en bestee, en moet aan die departement die opgawes van inkomste en

(2) The provisions of sub-sections (2) to (9) inclusive of section sixty shall *mutatis mutandis* apply in connection with any such expropriation.

95. (1) Any officer of the department nominated thereto by the director shall be entitled to attend, but not to vote at, any meeting of an irrigation board and to assist any such board or a committee thereof with his advice upon any matter relating to any question under discussion or consideration by such board or committee. Powers of Minister and director to supervise the affairs of an irrigation board

(2) (a) The director may, from time to time, appoint any officer of the department to inspect the lands or water works belonging to or under the control of an irrigation board, including any land in respect of which water is supplied from works controlled by such board, or to investigate the affairs of such board, and if after consideration of a report made by such officer the Minister is satisfied that the said works have not been or are not being executed or maintained in a satisfactory manner, or that the board has failed to carry out any of the functions, powers and duties assigned to or imposed upon it under this Act or the regulations made thereunder or any other law, or has been dilatory or negligent in carrying out such functions, powers and duties, or has not satisfactorily carried out or complied with any order of a water court whereby any duty has been imposed upon the said board, or if at any time the board has for a period of sixty days or more failed to pay any moneys due and payable to the Government in respect of an advance or loan made to it by the Government, the Minister may—

- (i) by notice in writing direct the said board to take within a period specified in the notice such action as is therein set out; or
- (ii) cause such action as he may deem necessary to be taken at the expense of the board, or levy and recover rates and collect any dues payable to the board sufficient to pay any moneys due in respect of any such advance or loan, or sufficient to cover the cost of any action so taken, together with all expenses incidental to the levying, recovery or collection of any rates he may so levy; or
- (iii) by notice in the *Gazette* and notice in writing to the board, declare the period of office of the members of the board to be terminated, and assume the functions of the board for such period as he may deem fit, or upon such termination or at any time thereafter take all such steps as he may consider necessary for the election of new members to the board.

(b) If the board fails to comply with a direction under sub-paragraph (i) of paragraph (a) within the period specified by the Minister or within such further period as he may determine, the Minister may forthwith apply the provisions of sub-paragraph (ii) or (iii) of that paragraph.

(3) The Minister shall, in respect of any period during which he assumes the functions of the board under sub-paragraph (iii) of paragraph (a) or under paragraph (b) of sub-section (2), be vested with all the powers, rights, assets, liabilities and obligations of the board and may delegate the control thereof to any officer of the department, and shall for the purpose of the levy and recovery of rates and the collection of dues under sub-paragraph (ii) of paragraph (a) of that sub-section, have the same powers and rights as are in terms of this Act vested in the board concerned in connection with the levy and recovery of such rates or the collection of such dues by that board.

(4) The Minister may, by action in a competent court or in such other manner as he may deem fit, recover the costs of any action taken by him under sub-paragraph (i), (ii) or (iii) of paragraph (a) of sub-section (2) from the board concerned.

96. (1) An irrigation board shall in manner prescribed by regulation, keep accounts of all moneys received and expended by it, and shall render to the department such statements of Accounts of irrigation boards.

uitgawes en die rekenings of verslae verstrek wat by regulasie voorgeskryf mag word en wat behoorlik deur die raad se ouditeurs geouditeer is.

(2) 'n Deur die direkteur daartoe gemagtigde amptenaar van die departement kan te eniger tyd die rekenings, boeke en aantekeninge van 'n besproeiingsraad insien.

(3) Elke besproeiingsraad moet 'n reserwefonds stig en van tyd tot tyd bedrae daarin stort wat deel uitmaak van die belastinge of vorderings kragtens artikel *negentig* deur hom gehef, soos die Minister bepaal, en 'n aldus gestorte bedrag word nie uit daardie fonds getrek nie behalwe met goedkeuring van die Minister.

Registrasie van regte of servitute by besproeiingsrade.

97. (1) Elke persoon wat geregtig is op 'n servituut of ander reg verkry voor die datum van die proklamasie waarby 'n besproeiingsdistrik ingestel is, wat aan hom 'n reg verleen om water binne daardie distrik te gebruik, moet binne 'n tydperk, aangegee in 'n kennisgewing deur die besproeiingsraad van daardie distrik aan hom bestel, wat nie minder as drie maande na die datum van bestelling van die kennisgewing is nie, by bedoelde besproeiingsraad om aantekening van daardie servituut of reg aansoek doen, en by ontstentenis van voldoening aan die vereistes van hierdie artikel binne die tydperk aldus aangegee, en solank as die servituut of reg onaangeteken bly, word dit nie deur die besproeiingsraad vir die doeleindes van die verdeling van water deur hom of vir enige ander doeleindes van hierdie Wet erken nie.

(2) (a) By oorweging van die aantekening van 'n in subartikel (1) bedoelde servituut of reg moet 'n besproeiingsraad alle servitute of regte waarop daar ten opsigte van die gebruik van bedoelde water aanspraak gemaak word, in aanmerking neem, hetsy dit teen titelbewyse geregistreer is of andersins wettig bestaan, en waar daar nie so 'n servituut of reg teen titelbewyse geregistreer is nie, moet voormelde persoon besonderhede verstrek van die servituut of reg wat hy volgens hierdie artikel wil laat aanteken, en daardie besonderhede moet op die by regulasie voorgeskrewe wyse gepubliseer word.

(b) Indien binne 'n tydperk van drie maande na die datum van publikasie van bedoelde besonderhede geen skriftelike beswaar teen die aantekening van 'n servituut of reg by die sekretaris van die raad ingedien is nie, word daardie servituut of reg deur die besproeiingsraad aangeteken, en indien so 'n beswaar wel ingedien is, word die servituut of reg nie aangeteken nie, behalwe op bevel van 'n waterhof of ander bevoegde hof of by terugtrekking van daardie beswaar deur die persoon wat dit by bedoelde besproeiingsraad ingedien het.

Aansoek by waterhof teen bevel of handeling van 'n besproeiingsraad.

98. (1) Die bepalinge in hierdie Hoofstuk vervat, word nie so uitgelê dat iemand wat hom deur 'n bevel, handeling of beslissing of voorgestelde bevel, handeling of beslissing van 'n besproeiingsraad veronreg voel, belet word om by 'n waterhof om verligting aansoek te doen nie: Met dien verstande dat waar so 'n bevel of handeling uitgevoer of beslissing geneem is deur bedoelde besproeiingsraad, 'n persoon wat hom daardeur veronreg voel, sy reg verbeur om by genoemde hof so 'n aansoek te doen tensy die aansoek gedoen word binne 'n tydperk van drie maande vandat die bevel uitgevaardig of die beslissing geneem of die handeling verrig is deur die raad, tensy daardie persoon tot bevrediging van bedoelde hof kan bewys dat hy weens afwesigheid uit die Unie of om ander gegronde rede nie in staat was om die aansoek binne bedoelde tydperk te doen nie.

(2) 'n Waterhof kan wanneer hy na aanleiding van 'n aansoek ingevolge hierdie artikel aan hom gerig, 'n bevel uitvaardig, 'n bedrag wat hy goedgevind vasstel wat die betrokke besproeiingsraad by wyse van vergoeding aan die applikant moet betaal.

Toelaes aan en kontrakte met lede van besproeiingsrade.

99. (1) 'n Lid van 'n besproeiingsraad ontvang, behalwe vir sover die Minister anders gelas, geen salaris, toelae, geld of beloning vir of uit hoofde of omrede van sy lidmaatskap van daardie raad nie, en mag nie sonder toestemming van die Minister 'n kontrak met so 'n raad ter waarde van meer as vyftig pond aangaan of regstreeks by so 'n kontrak belang hê nie.

(2) Iemand wat 'n bepaling van hierdie artikel oortree, is aan 'n misdryf skuldig en is onbevoeg om lid van 'n besproeiingsraad te wees.

revenue and expenditure and such accounts or reports as may be prescribed by regulation, duly audited by the auditors of the board.

(2) Any officer of the department authorized thereto by the director may at any time examine the accounts, books and records of any irrigation board.

(3) Every irrigation board shall establish a reserve fund and shall from time to time deposit therein such amounts as may be determined by the Minister, being portion of the rates or charges assessed by it in terms of section *ninety*, and no amount so deposited shall be withdrawn from such fund except with the approval of the Minister.

97. (1) Every person entitled to any servitude or other right entitling him to the use of water within an irrigation district, acquired before the date of the proclamation whereby such district was established, shall within a period specified in a notice served upon him by the irrigation board of that district, not being less than three months after the date of service of such notice, apply to such irrigation board to record that servitude or right, and in default of compliance with the requirements of this section within the period so specified, and as long as the servitude or right remains unrecorded, it shall not be recognized by the irrigation board for the purpose of the distribution of water by it or for any purpose under this Act.

Registration of rights or servitudes with irrigation boards.

(2) (a) In considering whether it shall record any servitude or right referred to in sub-section (1), an irrigation board shall have regard to all servitudes or rights claimed in respect of the use of such water, whether registered against title or otherwise lawfully existing, and where there is no such servitude or right registered against title, the person aforesaid shall set forth the particulars of the servitude or right which he claims to have recorded under this section, and such particulars shall be published in manner prescribed by regulation.

(b) If within a period of three months after the date of publication of such particulars, written objection has not been lodged with the secretary of the board to the recording of any servitude or right, such servitude or right shall be recorded by the irrigation board, and if any such objection has been lodged, the servitude or right shall not be recorded except upon the order of a water court or other competent court or upon withdrawal of such objection by the person by whom it has been lodged with such irrigation board.

98. (1) Nothing in this Chapter contained shall be construed as preventing any person aggrieved by an order, act or decision, or a proposed order, act or decision of an irrigation board from making application to a water court for relief: Provided that where such order or act has been carried out or decision has been made by the said irrigation board, a person aggrieved thereby shall forfeit his right to make such application to the said court unless the application is made within a period of three months from the making of the order or decision or the doing of the act by the board, unless such person can prove to the satisfaction of the said court that owing to his absence from the Union or any other reasonable cause he has been unable to make such application within the said period.

Application to a water court against order or act of an irrigation board.

(2) A water court may in making any order arising out of an application made to it under this section, fix such amount of compensation to be paid to the applicant by the irrigation board concerned, as it deems fit.

99. (1) A member of an irrigation board shall not, except in so far as the Minister otherwise directs, receive any salary, allowance, fee or reward for, on account of, or by reason of his being a member of such board, or, without the permission of the Minister, enter into a contract with such board exceeding fifty pounds in value or be directly interested in any such contract.

Allowances to and contracts with members of irrigation boards.

(2) Any person who contravenes any provision of this section shall be guilty of an offence and shall be disqualified from being a member of an irrigation board.

(3) Die bepalings van hierdie artikel word nie so uitgelê dat dit 'n lid van 'n besproeiingsraad belet om ooreenkomstig regulasies 'n toelae ten opsigte van uitgawes deur hom by die verrigting van sy pligte as 'n lid aangegaan, te ontvang nie.

Eiendomsreg in waterwerke deur besproeiingsrade gebou.

100. Wanneer 'n besproeiingsraad ingevolge die bepalings van hierdie Wet of enige vorige wet 'n waterwerk gebou of andersins verkry het, berus die regte en voorregte in verband met eiendomsreg daarop by daardie raad, tensy bedoelde raad daardie werk ingevolge paragraaf (c) van sub-artikel (5) van artikel *nege-en-tagtig* gebou het en die koste van daardie werk op die betrokke eienaar verhaal het.

Besproeiingsraad moet algemene jaarvergadering van kiesers belê.

101. (1) 'n Besproeiingsraad moet minstens eenmaal per jaar 'n algemene vergadering belê van die kiesers wie se name voorkom op die kieserslys van die besproeiingsdistrik wat volgens artikel *drie-en-tagtig* opgestel of hersien is, en moet op daardie vergadering sy rekenings ten opsigte van die voorafgaande jaar aan bedoelde kiesers voorlê en van sy bedrywighede gedurende daardie jaar rekenskap gee.

(2) Indien minstens vyf-en-twintig van die kiesers wie se name op bedoelde kieserslys voorkom, of (waar daar minder as vyf-en-sewentig sodanige kiesers is) minstens een-derde van daardie kiesers, meen dat dit in die belang is van die meerderheid van die persone wat vir die betaling van belasting of vorderings aan genoemde raad aanspreeklik is, dat 'n spesiale vergadering van daardie persone gehou moet word, moet die raad op versoek van bedoelde kiesers so 'n spesiale vergadering belê.

Regulasies betreffende besproeiingsrade.

102. Die Minister kan regulasies uitvaardig betreffende—

- (a) die nominasie van kandidate en die verkiesing van lede van 'n besproeiingsraad, en die prosedure en metode van stemming daarby;
- (b) die bevoegdhede en pligte van kiesbeamptes in verband met sodanige verkiesings en in verband met die eerste vergadering van 'n besproeiingsraad;
- (c) die kworum by vergaderings van 'n besproeiingsraad;
- (d) die aanstelling van 'n sekretaris en ander beamptes of werknemers van 'n besproeiingsraad;
- (e) die toelaes vir uitgawes wat aan 'n lid toegestaan kan word;
- (f) die oordrag deur 'n besproeiingsraad van enige van sy bevoegdhede aan komitees, en die samestelling, kworum, bevoegdhede en prosedure van sodanige komitees;
- (g) die wyse waarop 'n vergadering onder artikel *honderden-een* belê moet word en die prosedure wat by so 'n vergadering gevolg moet word;
- (h) die bestelling van kennisgewings ingevolge hierdie Hoofstuk;
- (i) die persone deur wie, die plek waar en die wyse waarop enigiets gedoen moet word waarvoor in hierdie Hoofstuk voorsiening gemaak word;
- (j) die wyse waarop rekenings deur 'n besproeiingsraad gehou moet word, en die opgawes wat ingevolge sub-artikel (1) van artikel *ses-en-negentig* verstrekk moet word; en
- (k) oor die algemeen enige ander aangeleentheid wat hy vir die uitvoering van die oogmerke van hierdie Hoofstuk nodig of dienstig ag.

Besproeiingsrade kan verordenings uitvaardig.

103. (1) Behoudens die bepalings van sub-artikel (2) kan 'n besproeiingsraad verordenings uitvaardig wat nie met hierdie Wet onbestaanbaar is nie, betreffende—

- (a) die prosedure op sy vergaderings;
- (b) die bevoegdhede en pligte van sy beamptes;
- (c) die metode van toesig of beheer oor die uitkering, verdeling en gebruik van water onder sy beheer, en die sluiting gedurende sekere tye en seisoene van waterwerke wat aan hom behoort, hetsy vir hersteldoelendes of vir die voordeel van aangrensende grond of om enige ander rede;
- (d) oor die algemeen enige ander sake wat nodig geag word om voor te skryf vir die uitvoering deur genoemde raad van die werksaamhede, bevoegdhede en pligte ingevolge hierdie Wet aan hom toegewys of opgelê.

(2) Geen verordening deur 'n besproeiingsraad uitgevaardig is geldig nie, tensy dit deur die Minister goedgekeur en deur hom in die *Staatskoerant* afgekondig is, en so 'n verordening

(3) Nothing in this section contained shall be construed as preventing a member of an irrigation board from receiving, in accordance with regulation, an allowance in respect of expenses incurred by him in the performance of his duties as a member.

100. Whenever an irrigation board has, under the provisions of this Act or any prior law, constructed or otherwise acquired a water work, the rights and privileges of ownership therein shall be vested in such board, unless such board has constructed that work under paragraph (c) of sub-section (5) of section *eighty-nine* and has recovered the cost of such work from the owner concerned.

Ownership of water works constructed by irrigation boards.

101. (1) An irrigation board shall, at least once in every year, convene a general meeting of the voters whose names appear on the voters' list of the irrigation district prepared or revised in terms of section *eighty-three* and shall at such meeting lay before the said voters a statement of its accounts in respect of the preceding year and give an account of its activities during such year.

Irrigation board to convene an annual general meeting of voters.

(2) If not less than twenty-five of the voters whose names are shown on the said voters' list or (where there are less than seventy-five such voters) not less than one-third of those voters, consider that it is in the interest of the majority of the persons liable to pay rates or charges to the said board that a special meeting of such persons be held, the board shall at the request of such voters convene such special meeting.

102. The Minister may make regulations relating to—

Regulations as to irrigation boards.

- (a) the nomination of candidates and the election of members of an irrigation board, and the procedure and method of voting thereat;
- (b) the powers and duties of returning officers in connection with such elections and in connection with the first meeting of an irrigation board;
- (c) the quorum for meetings of an irrigation board;
- (d) the appointment of a secretary and other officers or servants of an irrigation board;
- (e) the allowances for expenses which may be made to a member;
- (f) the delegation by an irrigation board of any of its powers to committees and the constitution, quorum, powers and procedure of such committees;
- (g) the manner of summoning and the procedure to be observed at any meeting required to be called under section *one hundred and one*;
- (h) the service of notices under this Chapter;
- (i) the persons by whom, the place at which and the manner in which, anything shall be done for which provision is made in this Chapter;
- (j) the manner in which accounts shall be kept by an irrigation board, and the returns to be rendered in terms of sub-section (1) of section *ninety-six*; and
- (k) generally any other matter which he considers it necessary or expedient to prescribe for the carrying out of the objects of this Chapter.

103. (1) Subject to the provisions of sub-section (2), an irrigation board may make by-laws not inconsistent with this Act, relating to—

Irrigation boards may make by-laws.

- (a) the procedure at its meetings;
- (b) the powers and duties of its officers;
- (c) the method of supervising or controlling the diversion, distribution and use of water under its control, and the closing of any water works belonging to it at certain times and seasons, whether for the purpose of repairs or for the benefit of any adjoining lands or for any other reason;
- (d) generally any other matters which it is deemed necessary to prescribe for the carrying out by the said board of the functions, powers and duties assigned to or imposed upon it under this Act.

(2) No by-law made by an irrigation board shall be valid unless it has been approved by the Minister and published by him in the *Gazette*, and no such by-law shall be approved until

word nie goedgekeur nie voor die verstryking van een maand nadat die raad 'n kennisgewing in 'n nuusblad in omloop in die besproeiingsdistrik van daardie raad gepubliseer en buite die hoofdeur van die kantoor van die raad aangeplak het, waarin die raad se voorneme om aansoek te doen om goedkeuring van bedoelde verordening te kenne gegee word.

(3) 'n Besproeiingsraad moet afskrifte van alle verordenings wat in sy besproeiingsdistrik van krag is aan enigiemand wat daarom aansoek doen, verstrek teen betaling vir elke sodanige afskrif van so 'n bedrag as wat deur die raad bepaal is, en 'n afskrif van alle sodanige verordenings moet deur die sekretaris van bedoelde raad in die kantoor van die raad gehou word en op alle redelike tye gratis ter insae deur enigiemand beskikbaar wees.

(4) Verordenings ingevolge 'n vorige wet deur 'n besproeiingsraad uitgevaardig, wat op die datum van die inwerkingtreding van hierdie Wet bestaan, word, tensy onbestaanbaar met die bepalings van hierdie Wet, geag ingevolge hierdie artikel uitgevaardig te gewees het.

Randwaterraad
nie aan gesag
van besproeiings-
rade onderworpe
nie.

104. Die werksaamhede, bevoegdhede en gesag van 'n besproeiingsraad waarvan die besproeiingsdistrik binne die regsgebied van die Randwaterraad geleë is, word uitgeoefen onderworpe aan die regte wat wettiglik voor die inwerkingtreding van hierdie Wet deur die Randwaterraad ingevolge die Private Wet op die Randwaterraadstatute, 1950 (Wet No. 17 van 1950), verkry is.

Voortbestaan van
bestaande rivier-
en besproeiings-
distrikte.

105. (1) 'n Rivierdistrik of besproeiingsdistrik wat onder een of ander wet ingestel is en op die datum van inwerkingtreding van hierdie Wet bestaan, word geag op daardie datum kragtens artikel vier-en-sewentig tot 'n besproeiingsdistrik verklaar te gewees het, en die ingevolge bedoelde wet vir so 'n distrik ingestelde raad word geag 'n kragtens hierdie Wet ingestelde besproeiingsraad te wees, en het, onderworpe aan die bepalings van hierdie Wet en die voorskrifte van die Minister, al die bevoegdhede, pligte en werksaamhede by bedoelde wet of enige ander wet aan hom verleen of opgedra en sodanige ander bevoegdhede, pligte en werksaamhede as wat kragtens hierdie Wet deur die Minister aan hom opgedra of verleen mag word.

(2) Alle bates, regte, laste en verpligtings wat by die inwerkingtreding van hierdie Wet by so 'n raad berus, bly aldus by hom berus, en enige verordenings uitgevaardig of beslissings gegee of belasting of vorderings gehef deur so 'n raad voor bedoelde inwerkingtreding, bly ten volle van krag totdat dit ingevolge hierdie Wet gewysig of herroep word.

(3) Die lede van so 'n raad wat by die inwerkingtreding van hierdie Wet diens doen, bly hul amp beklee vir so 'n tydperk as wat die Minister bepaal, en by verstryking van daardie tydperk word nuwe lede gekies op dieselfde wyse as in die geval van die eerste verkiesing van lede van 'n besproeiingsraad onder hierdie Wet, en daarna is al die bepalings van hierdie Wet van toepassing in verband met die samestelling en die ampstermyn van lede van bedoelde raad.

Insluiting in
besproeiings-
distrik van sekere
grond geleë in
Suidwes-Afrika.

106. (1) Die besproeiingsdistrik Vioolsdrift en die besproeiingsraad daarvan, ingestel by Proklamasie No. 264 van 1950, word geag ingevolge artikel vier-en-sewentig tot 'n besproeiingsdistrik verklaar te gewees het asof die stuk grond in die gebied Suidwes-Afrika geleë wat in daardie besproeiingsdistrik ingesluit is, op die datum van afkondiging van daardie proklamasie deel van die Unie uitgemaak het, en die bepalings van hierdie Hoofstuk is, behoudens die bepalings van sub-artikel (2), *mutatis mutandis* op bedoelde distrik en raad van toepassing.

(2) Die waterwerk deur die Regering in genoemde gebied gebou vir die besproeiing van sekere grond in daardie gebied (ingevolge die ooreenkoms gedateer die agste dag van September 1933 tussen die Minister en die Administrateur van bedoelde gebied) wat deel uitmaak van die Vioolsdrift-nedersetting, geleë aan die Oranjerivier gedeeltelik in die Afdeling Namakwaland en gedeeltelik binne bedoelde gebied, word geag 'n Staatswaterwerk gebou kragtens sub-artikel (1) van artikel ses-en-vyftig te wees.

HOOFSTUK VII.

WATERRADE.

Omskrywing.

107. In hierdie Hoofstuk beteken „verbruiker” 'n persoon aan wie water voorsien word of wat geregtig is om van water voorsien te word deur 'n waterraad of 'n plaaslike bestuur.

the expiry of one month after a notice has been published by the board in a newspaper circulating in the irrigation district of such board and posted outside the principal door of the office of the board, stating its intention to apply for the approval of such by-law.

(3) An irrigation board shall supply copies of all by-laws in force in its irrigation district to any person applying therefor, upon payment of such sum for each such copy as has been determined by the board, and a copy of all such by-laws shall be kept by the secretary of the said board in the office of the board and shall be open for inspection at all reasonable times by any person free of charge.

(4) Any by-laws made by an irrigation board under any prior law and in existence at the date of commencement of this Act shall, unless inconsistent with the provisions of this Act, be deemed to have been made under this section.

104. The functions, powers and jurisdiction of any irrigation board whose irrigation district is situated within the area of jurisdiction of the Rand Water Board shall be exercised subject to rights lawfully acquired prior to the commencement of this Act by the Rand Water Board under the Rand Water Board Statutes (Private) Act, 1950 (Act No. 17 of 1950).

Rand Water Board not subject to jurisdiction of irrigation boards.

105. (1) Any river district or irrigation district established under any law and in existence on the date of commencement of this Act, shall be deemed to have been declared to be an irrigation district under section *seventy-four* on that date, and the board established in respect of any such district under that law shall be deemed to be an irrigation board established under this Act, and shall, subject to the provisions of this Act and the directions of the Minister, have all the powers, duties and functions vested in it under the said law or any other law and such other powers, duties and functions as may be assigned to it by the Minister under this Act.

Continuation of existing river and irrigation districts.

(2) All assets, rights, liabilities and obligations vested in any such board on the commencement of this Act shall remain so vested in it, and any by-laws made or decisions given or rates or charges imposed by such board prior to such commencement shall remain of full force and effect until amended or withdrawn under this Act.

(3) The members of any such board holding office at the commencement of this Act shall continue to hold office for such period as the Minister may determine, and upon the expiration of such period new members shall be elected in the same manner as in the case of the first election of members of an irrigation board under this Act, and thereafter all the provisions of this Act shall apply in connection with the constitution and the period of office of members of such board.

106. (1) The Vioolsdrift irrigation district and the irrigation board thereof, constituted by Proclamation No. 264 of 1950, shall be deemed to have been declared an irrigation district under section *seventy-four* as if at the date of promulgation of that proclamation the piece of land situated in the territory of South-West Africa and included in the said district formed part of the Union, and the provisions of this Chapter shall, subject to the provisions of sub-section (2) apply *mutatis mutandis* to the said district and board.

Inclusion in irrigation district of certain land situated in South-West Africa.

(2) The water work constructed by the Government in the said territory for the irrigation of certain land in that territory (in terms of the agreement between the Minister and the Administrator of the said territory, dated the eighth day of September, 1933) being part of the Vioolsdrift Settlement, situated on the Orange River partly in the Division of Namaqualand and partly in the said territory, shall be deemed to be a Government water work constructed in terms of sub-section (1) of section *fifty-six*.

CHAPTER VII.

WATER BOARDS.

107. In this Chapter "consumer" means a person supplied or entitled to be supplied with water by a water board or a local authority.

Definitions.

Instelling van
waterrade.

108. (1) Wanneer die Minister dit dienstig of wenslik ag dat 'n gekombineerde skema ingestel word ten einde water vir stedelike, nywerheids- of landboudoeleindes binne enige gebied aan plaaslike besture, enige Staatsdepartement, insluitende die Suid-Afrikaanse Spoorweg- en Hawensadministrasie en 'n provinsiale administrasie, of ander persone te voorsien, of wanneer die Minister 'n Staatswaterwerk vir so 'n doel gebou het of met die bou daarvan begin het, kan hy by die Goewerneur-generaal aanbeveel dat vir daardie gebied of vir die gebied wat deur bedoelde waterwerk bedien sal word, 'n waterraad ingestel word.

(2) Die Goewerneur-generaal kan daarop by proklamasie in die *Staatskoerant* vir die betrokke gebied, soos in die proklamasie omskryf, 'n waterraad instel en aan bedoelde raad 'n naam toewys, en kan te eniger tyd die grense van bedoelde gebied insgelyks verander.

(3) 'n Waterraad is met regspersoonlikheid bekleed en kan onder sy naam as regspersoon as eiser en verweerder in regte optree en vas- of losgoed koop of andersins verkry, besit en vervreem en die handeling verrig wat vir die uitoefening van sy bevoegdhede of die uitvoering van sy werksaamhede nodig is of daarmee in verband staan.

Benoeming van
lede van water-
rade en ampstyd
van lede.

109. (1) (a) 'n Waterraad bestaan, behoudens die bepalings van paragraaf (b) van hierdie sub-artikel en paragraaf (b) van sub-artikel (2), uit soveel lede as wat die Minister mag bepaal, deur hom aangestel te word uit persone wat as volg genomineer of gekies word, te wete—

(i) een persoon genomineer te word deur elke plaaslike bestuur waaraan of ten opsigte van wie se gebied water deur die raad verskaf word of staan te word;

(ii) een persoon gekies te word deur die eienaars van grond in dorpe geleë binne die gebied van so 'n raad, maar buite enige plaaslike bestuursgebied, aan wie water deur daardie raad verskaf word of staan te word, of, indien die Minister aldus gelas, deur sodanige eienaars in elke wyk waarin bedoelde dorpe deur die Minister verdeel mag word;

(iii) een persoon genomineer te word deur elke besproeiingsraad waaraan water deur so 'n waterraad verskaf word of staan te word;

(iv) een persoon gekies te word deur die eienaars van grond (uitgesonderd grond binne 'n besproeiingsdistrik of 'n dorp of 'n plaaslike bestuursgebied) aan wie water deur bedoelde waterraad verskaf word of staan te word, of, indien die Minister aldus gelas, deur sodanige eienaars in elke wyk waarin die gebied van daardie raad deur die Minister verdeel mag word;

(v) een persoon gekies te word deur persone aan wie water deur bedoelde waterraad verskaf word of staan te word vir nywerheids- (insluitende mynbou-) doeleindes, of, indien die Minister aldus gelas, deur elk van sodanige groepe van daardie persone as wat hy mag bepaal.

(b) Die Minister stel, benewens die in paragraaf (a) bedoelde lede, sodanige persone as lede van 'n waterraad aan as wat hy goedvind.

(c) Die verkiesing kragtens sub-paragraaf (ii), (iv) of (v) van paragraaf (a) van 'n persoon om as lid van 'n waterraad aangestel te word, geskied op die wyse wat die Minister gelas.

(2) (a) Die persone in paragraaf (a) van sub-artikel (1) bedoel, moet genomineer of gekies word nie later nie as 'n datum van tyd tot tyd deur die Minister vir die doel vasgestel en skriftelik aan die betrokke plaaslike bestuur, besproeiingsraad, eienaars of persone meegedeel, of bekend gemaak op die ander wyse wat die Minister bepaal.

(b) Hoogstens vyftien van die lede van 'n waterraad moet persone wees wat ingevolge paragraaf (a) van sub-artikel (1) genomineer of gekies is, en indien meer as vyftien persone onder daardie paragraaf vir aanstelling in so 'n raad genomineer of gekies word, stel die

108. (1) Whenever the Minister deems it expedient or desirable that a combined scheme be established for supplying water for urban, industrial or agricultural purposes within any area to local authorities, any department of State, including the South African Railways and Harbours Administration and any provincial administration, or other persons, or whenever the Minister has constructed or commenced the construction of a Government water work for any such purpose, he may recommend to the Governor-General that a water board be constituted for such area or for the area to be served by such water work.

Establishment of water boards.

(2) The Governor-General may thereupon by proclamation in the *Gazette* establish for the area in question, which shall be defined in the proclamation, a water board and assign a name to such board, and may in like manner at any time alter the boundaries of such area.

(3) A water board shall be a body corporate, capable of suing and being sued in its corporate name, and of purchasing or otherwise acquiring, holding and alienating movable or immovable property, and of performing such acts as are necessary for or incidental to the exercise of its powers or the performance of its functions.

109. (1) (a) A water board shall, subject to the provisions of paragraph (b) of this sub-section and paragraph (b) of sub-section (2), consist of so many members as the Minister may determine, to be appointed by him from amongst persons to be nominated or elected as follows, namely—

Appointment of members of water boards and period of office of members.

(i) one person to be nominated by every local authority to which or in respect of whose area water is or is to be supplied by the board;

(ii) one person to be elected by owners of land in townships within the area of such board, but outside any local authority area, to whom water is or is to be supplied by that board, or, if the Minister so directs, by such owners in each ward into which such townships may be divided by the Minister;

(iii) one person to be nominated by every irrigation board which is or is to be supplied with water by such water board;

(iv) one person to be elected by owners of land (not being land within an irrigation district or a township or local authority area) to whom water is or is to be supplied by such water board, or, if the Minister so directs, by such owners in each ward into which the area of such board may be divided by the Minister;

(v) one person to be elected by persons to whom water is or is to be supplied by such water board for industrial (including mining) purposes, or, if the Minister so directs, by each of such groups of those persons as he may determine.

(b) The Minister may appoint such persons to be members of a water board, in addition to the members referred to in paragraph (a), as he may deem fit.

(c) The election of any person to be appointed as a member of a water board under sub-paragraph (ii), (iv) or (v) of paragraph (a) shall take place in such manner as the Minister may direct.

(2) (a) The persons referred to in paragraph (a) of sub-section (1) shall be nominated or elected not later than a date fixed by the Minister from time to time for the purpose and notified to the local authority, irrigation board, owners or persons concerned in writing, or made known in such other manner as the Minister may determine.

(b) Not more than fifteen of the members of a water board shall be persons nominated or elected under paragraph (a) of sub-section (1), and if more than fifteen persons are nominated or elected under that paragraph for appointment to such a board, the

Minister vyftien van daardie persone, deur hom uitgesoek op die wyse wat hy nodig ag om redelike verteenwoordiging van die verskillende betrokke belange te verseker, aan as lede van daardie raad.

- (c) Indien 'n plaaslike bestuur of 'n besproeiingsraad of eienaars of persone in paragraaf (a) van sub-artikel (1) bedoel, in gebreke bly om 'n persoon te nomineer of te kies wat daardie plaaslike bestuur, besproeiingsraad, eienaars of persone ingevolge daardie paragraaf geregtig is om te nomineer of te kies, of om die Minister binne dertig dae na die kragtens paragraaf (a) van hierdie sub-artikel vasgestelde datum van die naam en adres van enige persoon wat aldus genomineer of gekies is, in kennis te stel, kan die Minister self enige persoon wat hy geskik ag om lid van die betrokke waterraad te wees, nomineer in die plek van enige persoon wat daardie plaaslike bestuur, besproeiingsraad, eienaars of persone kon genomineer of gekies het.
- (3) (a) Iedere aanstelling van 'n lid van 'n waterraad word in die *Staatskoerant* afgekondig, en so 'n lid beklee sy amp behoudens die bepalings van paragraaf (b) van sub-artikel (5) vir 'n tydperk van vier jaar vanaf die datum waarop sy aanstelling aldus afgekondig word.
- (b) 'n Lid van 'n waterraad kan, indien daartoe bevoeg, by verstryking van enige tydperk waarvoor hy sy amp beklee het, weer aangestel word.
- (4) 'n Persoon is onbevoeg om as lid van 'n waterraad genomineer, gekies of aangestel te word of lid daarvan te bly indien hy weens 'n misdryf veroordeel en tot gevangenisstraf sonder die keuse van 'n boete gevonnissen is of indien hy insolvent of kranksinnig is of sonder die raad se verlof van drie agtereenvolgende vergaderings van die raad afwesig was.
- (5) (a) Enige toevallige vakature wat weens dood, bedanking, onbevoegdheid of andersins in 'n waterraad ontstaan, word deur die Minister gevul na sodanige oorlegpleging met die betrokke plaaslike bestuur, besproeiingsraad, eienaars of persone as wat hy nodig ag.
- (b) Elke sodanige vakature word gevul sodra doenlik nadat die vakature ontstaan het, maar die lid wat aangestel word om die vakature te vul, beklee sy amp slegs vir die tydperk wat die uitgaande lid dit sou beklee het indien geen vakature ontstaan het nie.
- (6) Daar kan aan 'n lid van 'n waterraad verlof tot afwesigheid van vergaderings van die raad verleen word vir so 'n tydperk as wat die raad goedvind, en die Minister kan, na sodanige oorlegpleging met die betrokke plaaslike bestuur, besproeiingsraad, eienaars of persone as wat hy nodig ag, 'n ander lid aanstel om in die plek van die afwesige lid op te tree gedurende die tydperk waarvoor verlof tot afwesigheid deur die raad verleen is.
- (7) Geen handeling van 'n waterraad word bloot op grond van 'n vakature in die raad of 'n gebrek of onreëlmatigheid in verband met die aanstelling, nominasie, verkiesing of bevoegdheid van 'n lid van die raad onwettig of ongeldig gemaak nie.
- (8) Op die eerste vergadering van 'n waterraad en daarna op 'n vergadering wat in die maand Januarie van elke jaar gehou moet word, moet 'n waterraad een van sy lede as voorsitter en een van die lede tot vise-voorsitter vir die volgende jaar kies, en op 'n vergadering van so 'n raad moet die voorsitter of in sy afwesigheid die vise-voorsitter of, in die afwesigheid van beide die voorsitter en die vise-voorsitter, 'n ander deur die aanwesige lede gekose lid van die raad voorsit, en indien die aldus gekose voorsitter of vise-voorsitter te sterwe kom of bedank of onbevoeg raak of andersins nie in staat is om as lid van bedoelde raad te dien nie, moet die raad op sy eersvolgende vergadering 'n ander voorsitter of vise-voorsitter, na gelang van die geval, kies en so 'n voorsitter of vise-voorsitter dien as sodanig vir die oorblywende gedeelte van die tydperk waarvoor sy voorganger aldus verkies was.

Werksaamhede,
bevoegdhede en
pligte van 'n
waterraad.

110. (1) 'n Waterraad is bevoeg—

- (a) om enige skema ter voorsiening en verskaffing van water vir gebruik vir stedelike, nywerheids- of landbou-doeleindes aan plaaslike besture, Staatsdepartemente, insluitende die Suid-Afrikaanse Spoorweg- en Hawensadministrasie en enige provinsiale administrasie, of ander persone binne die gebied waarvoor daardie waterraad ingestel is, daar te stel, te bou, aan te koop of andersins te verkry en dit in stand te hou en te beheer;
- (b) om die ingenieurs, tegniese en ander beampptes, werkliede en dienaars wat hy nodig ag, aan te stel en wel

Minister shall appoint fifteen of those persons, to be selected by him in such manner as he may consider necessary to ensure reasonable representation of the various interests concerned, as members of that board.

- (c) If a local authority or an irrigation board or owners or persons referred to in paragraph (a) of sub-section (1) fail to nominate or elect any person whom such local authority, irrigation board, owners or persons are in terms of that paragraph entitled to nominate or elect, or to advise the Minister of the name and address of any person so nominated or elected within thirty days of the date fixed under paragraph (a) of this sub-section, the Minister may himself nominate any person he deems fit to be a member of the water board concerned in the stead of any person who could have been nominated or elected by such local authority, irrigation board, owners or persons.

- (3) (a) Every appointment of a member of a water board shall be notified in the *Gazette*, and any such member shall, subject to the provisions of paragraph (b) of sub-section (5), hold office for a period of four years from the date upon which his appointment is so notified.

- (b) A member of a water board shall, if qualified, be eligible for re-appointment on termination of any period for which he has held office.

- (4) A person shall be disqualified from being nominated, elected, or appointed to or remaining a member of a water board if he has been convicted of an offence and sentenced to imprisonment without the option of a fine, or if he is insolvent or of unsound mind or has without the consent of the board absented himself from three consecutive meetings thereof.

- (5) (a) Any casual vacancy on a water board occurring by death, resignation, disqualification or otherwise shall be filled by the Minister after such consultation with the local authority, irrigation board, owners or persons concerned as he may deem necessary.

- (b) Any such vacancy shall be filled as soon as practicable after the occurrence of the vacancy, but the member appointed to fill the vacancy shall retain his office only for so long as the vacating member would have retained such office if no vacancy had occurred.

- (6) Any member of a water board may be granted leave of absence from meetings of the board for such period as the board may deem fit, and the Minister may, after such consultation with the local authority, irrigation board, owners or persons concerned as he may deem necessary, appoint another member to act in the place of the absent member during the period for which leave of absence has been granted by the board.

- (7) No act of a water board shall be rendered invalid or illegal by reason only of any vacancy in the board or of any defect or irregularity in the appointment, nomination, election or qualification of any member of the board.

- (8) At the first meeting of a water board and thereafter at a meeting to be held in the month of January of each year, a water board shall elect one of the members thereof to be chairman, and one of such members to be vice-chairman for the ensuing year, and at any meeting of such board the chairman, or in his absence the vice-chairman, or in the absence of both the chairman and the vice-chairman, another member of the board chosen by the members present shall preside, and if the chairman or the vice-chairman so elected dies or resigns or becomes disqualified or is otherwise unable to serve as a member of the said board, the board shall at its next succeeding meeting elect another chairman or vice-chairman, as the case may be, and such chairman or vice-chairman shall serve as such for the remainder of the period for which his predecessor in office was so elected.

110. (1) A water board shall have power—

- (a) to establish, construct, purchase or otherwise acquire and to maintain and control any scheme to provide and supply water for use for urban, industrial or agricultural purposes to local authorities, departments of State, including the South African Railways and Harbours Administration and any provincial administration, or other persons within the area for which such water board has been established;
- (b) to appoint such engineers, technical officers and other officers, workmen and servants as it may deem

Functions, powers and duties of a water board.

- teen die salarisse, lone en toelaes wat, met toestemming van die Minister na oorlegpleging met die Staatsdienskommissie gegee, by verordening kragtens artikel *honderd ses-en-dertig* voorgeskryf word;
- (c) om deur middel van lenings geld op te neem;
 - (d) om deur aankoop, huur of andersins grond of regte of belange in grond, waterregte en regte op eiendom van enige aard te verkry, en om eiendom of regte aldus verkry, te beheer of andersins voordelig aan te wend;
 - (e) om kantore, geboue, masjinerie, uitrusting, geleidings, waterkanale, opgaarplekke, meters, waterkrane, duikers, pyplyne, waterwerke, reservoires, damme, filtreerbeddings, putte, skagte, spoorwagsylyne, walle, paaie, brûe, voertuie en ander apparaat of werke benodig vir of in verband met enige in paragraaf (a) bedoelde skema, deur aankoop, huur of andersins te verkry of te bou en in stand te hou, te verander of te verbeter;
 - (f) om enige eiendom of uitrusting kragtens paragraaf (d) of (e) verkry of gebou, te verruil, te verhuur, te verkoop of te verhipotekeer;
 - (g) om deur of deur middel van sy beamptes, dienaars of agente opnames, planne, seksies, kaarte, tekenings en ramings te laat maak;
 - (h) om deur of deur middel van sy beamptes, dienaars of agente wat behoorlik daartoe gemagtig is, grond te laat betree ten einde planne en opnames daarvan te maak, enige watervoorraad op of onder sodanige grond te ondersoek, of die geskiktheid van enige terrein vir die bou van opgaar- of ander werke met betrekking tot die voorsiening van water te ondersoek, en so 'n opname of ondersoek kan ondersoek omtrent die suiwerheid en chemiese samestelling van sodanige water insluit;
 - (i) om met plaaslike besture, die Regering, insluitende die Suid-Afrikaanse Spoorweg- en Hawensadministrasie en enige provinsiale administrasie, maatskappye en ander persone kontrakte aan te gaan vir die voorsiening van water binne die gebied waarvoor die raad ingestel is;
 - (j) om behoudens die bepalings hieronder met betrekking tot pryse gemaak, vir water wat voorsien word vorderings te hef en te verhaal;
 - (k) om voorrade water te koop of andersins te verkry;
 - (l) om by enige maatskappy of persoon versekering aan te gaan teen enige verliese, skade, risiko's en verpligtings wat die raad mag opdoen;
 - (m) om oor, onder of op publieke of private grond of 'n openbare pad, openbare plek of uitspanning, hetsy binne of buite die gebied waarbinne water voorsien moet word, pype vir die voorsiening van water, tesame met die nodige kleppe, krane, meters of ander toebehore in verband daarmee, te lê of deur te voer, en van tyd tot tyd te herstel en te onderhou, en om vir daardie doel sodanige grond, pad of plek te betree;
 - (n) om 'n pensioenfonds vir sy werknemers in te stel en daartoe by te dra ooreenkomstig verordenings kragtens artikel *honderd ses-en-dertig* uitgevaardig.
- (2) 'n Waterraad moet van tyd tot tyd in opdrag van die Minister sodanige versekeringskontrakte ingevolge paragraaf (l) van sub-artikel (1) aangaan as wat die Minister mag vereis.
- (3) 'n Waterraad is by die uitoefening van die bevoegdheid deur paragraaf (h) van sub-artikel (1) aan hom verleen, bevoeg—
- (a) om te soek, te delf, uitgrawings te doen, te boor of enige werke of ondersoek uit te voer wat nodig mag wees vir die ontdekking, bepaling of meting of die vasstelling van die chemiese samestelling van water wat uit enige fontein, put of bron ontspring of wat in enige rivier, waterloop of bedding vloei;
 - (b) om enige stappe te doen wat nodig is ter bepaling van die vlakke, rigting van die vloei of chemiese samestelling van water wat in ondergrondse reservoires of beddings bevat is of vloei; en
 - (c) om te soek, te delf, uitgrawings te doen, te boor en werke uit te voer wat nodig mag wees ter bepaling van die geskiktheid van enige terrein vir die bou van opgaar- of ander werke met betrekking tot die voorsiening van water,
- en kan vir so 'n doel enige grond betree: Met dien verstande dat geen gebou of omslote ruimte verbonde aan 'n woning sonder die toestemming van die okkupeerder daarvan betree mag word nie.

requisite at such salaries, wages and allowances as may, with the approval of the Minister given after consultation with the Public Service Commission, be prescribed by by-laws under section *one hundred and thirty-six*;

- (c) to raise money by way of loans;
- (d) to acquire by purchase, lease or otherwise, land or rights or interests in land, water rights, and rights to property of any description, and to control or otherwise beneficially use any property or rights so acquired;
- (e) to acquire by purchase, lease or otherwise or to construct, and to maintain, alter or improve offices, buildings, machinery, plant, conduits, water-channels, cisterns, meters, watercocks, culverts, pipe-lines, water works, reservoirs, dams, filter-beds, wells, shafts, railway sidings, embankments, roads, bridges, vehicles and any other apparatus or works required for or in connection with any scheme referred to in paragraph (a);
- (f) to exchange, let, sell or hypothecate any of the property or plant acquired or constructed under paragraph (d) or (e);
- (g) to cause surveys, plans, sections, maps, drawings and estimates to be made by or through its officers, servants or agents;
- (h) to cause entry to be made by or through its officers, servants, or agents duly authorized thereto upon any land for the purpose of making plans and surveys thereof, the investigation of any water supply on or under such land, or investigations as to the suitability of any site for the construction of storage or other works in relation to the supply of water, and any such survey or investigation made may include investigations into the purity and chemical composition of any such water;
- (i) to enter into contracts with local authorities, the Government, including the South African Railways and Harbours Administration and any provincial administration, companies and other persons for the supply of water within the area for which the board has been established;
- (j) subject to the provisions hereinafter contained as to prices, to make and recover charges for water supplied;
- (k) to purchase or otherwise acquire supplies of water;
- (l) to insure with any company or person against any losses, damage, risks and liabilities which the board may incur;
- (m) to lay or carry through, over, under or across any land, public or private, or any public road, public place or outspan, either within or without the area in which water is to be supplied, and from time to time to repair and maintain, any pipes for the supply of water with any necessary valves, cocks, meters or other accessories in connection therewith and for that purpose to enter upon any such land, road or place;
- (n) to establish a pension fund for its employees and to contribute to such a fund in accordance with by-laws made under section *one hundred and thirty-six*.

(2) A water board shall from time to time on the direction of the Minister enter into such contracts of insurance under paragraph (l) of sub-section (1) as the Minister may require.

(3) A water board shall in the exercise of the powers conferred by paragraph (h) of sub-section (1), have power—

- (a) to search, dig, excavate, bore or carry out any works or investigations which may be necessary for the discovery, gauging or measurement or the establishment of the chemical composition of any water rising from any spring, well or fountain, or flowing in any river, watercourse or channel;
- (b) to take any steps necessary to determine the levels, direction of flow or chemical composition of any water contained in or flowing in any underground reservoirs or channels; and
- (c) to search, dig, excavate, bore and carry out any works necessary to determine the suitability of any site for the construction of storage or other works in relation to the supply of water,

and may for any such purpose enter upon any land: Provided that no entry shall be made into any building or upon any enclosed space attached to a dwelling, except with the consent of the occupier thereof.

(4) By die uitoefening van die bevoegdhede deur paragrawe (h) en (m) van sub-artikel (1) en sub-artikel (3) aan 'n waterraad verleen, moet so min skade as moontlik aangerig word, en die vergoeding waarop ooreengekom of wat by ontstentenis van ooreenkoms deur 'n bevoegde hof bepaal word, moet deur so 'n raad betaal word vir alle skade aldus aangerig of anders moet bedoelde raad sodanige skade herstel.

(5) Die bepalings van sub-artikel (7) van artikel *honderd een-en-veertig* is *mutatis mutandis* van toepassing met betrekking tot die uitoefening van enige van die in paragraaf (m) van sub-artikel (1) van hierdie artikel bedoelde bevoegdhede ten aansien van 'n pad soos in eersgenoemde sub-artikel bedoel.

Instelling of
aanskaffing van
skema deur 'n
waterraad.

111. (1) 'n Waterraad moet sodra moontlik na sy samestelling in oorleg met die departement ondersoek instel in verband met die instelling of aanskaffing van 'n skema of skemas vir die voorsiening van water binne sy gebied, en indien hy meen dat die instelling of aanskaffing van 'n skema of skemas nodig en uitvoerbaar is, moet hy 'n verslag van sy voorstelle aan die Minister voorlê.

(2) Indien die Minister enige voorstelle ingevolge sub-artikel (1) aan hom voorgelê, goedkeur, kan hy die waterraad magtig om by wyse van lenings, soos hieronder bepaal, die kapitaalgeld te verkry wat nodig is om die instelling of aanskaffing van bedoelde skema of skemas ooreenkomstig die bepalings van hierdie Hoofstuk te finansier.

(3) 'n Skema word nie deur 'n waterraad ingestel of aangeskaf nie, en van die voorstelle vir die instelling van 'n skema, soos deur die Minister goedgekeur, word nie wesentlik afgewyk nie, en 'n bestaande skema word nie wesentlik uitgebrei of verander nie, behalwe met goedkeuring vooraf van die Minister.

Ontieningsbe-
voegdhede van 'n
waterraad.

112. 'n Waterraad het by die uitoefening van die bevoegdhede ingevolge hierdie Hoofstuk aan hom verleen, dieselfde bevoegdhede as wat deur artikel *vier-en-negentig* aan 'n besproeiingsraad verleen word en die bepalings van daardie artikel is *mutatis mutandis* van toepassing met betrekking tot 'n waterraad.

Voorsiening van
water deur 'n
waterraad.

113. (1) Behoudens die bepalings van hierdie Wet kan 'n waterraad—

(a) water in massa vir stedelike gebruik voorsien aan enige plaaslike bestuur binne die gebied van die raad, wat daarom aansoek doen en onderneem om daardie water te neem en aan verbruikers binne sy regsgebied te distribueer;

(b) water in massa of andersins voorsien aan enige Staatsdepartement (insluitende die Suid-Afrikaanse Spoorweg- en Hawensadministrasie en enige provinsiale administrasie) of aan iemand wat met prospekteer, mynbou, nywerheid, landbou of 'n ander onderneming besig is, of aan enige ander persoon wat daarom aansoek doen en onderneem om dit te neem: Met dien verstande dat, tensy die Minister anders gelas, geen water voorsien mag word nie aan 'n verbruiker binne die regsgebied van 'n plaaslike bestuur waaraan deur daardie waterraad water in massa voorsien word, of indien bedoelde verbruiker deur daardie plaaslike bestuur van water uit 'n ander bron voorsien word, behalwe met toestemming van daardie plaaslike bestuur.

(2) Niemand is geregtig op die voorsiening deur 'n waterraad van water vir 'n perseel wat 'n afsonderlike watervoorraad het nie, tensy so iemand ooreengekom het om jaarliks so 'n minimum bedrag te betaal as wat volgens die Minister se oordeel aan die waterraad 'n redelike opbrengs sal verseker op die uitgawes wat deur die raad aangegaan mag word ten einde in die moontlike maksimum aanvraag vir daardie perseel te voorsien, of sekuriteit vir die betaling van bedoelde bedrag verstrek het.

Nie-betaling
vir water wat
verskaf is.

114. (1) Behoudens die bepalings van sub-artikel (2), mag 'n waterraad nie die toevoer van water na 'n verbruiker, soos in die voorsieningskontrak bepaal, sonder voorafgaande goedkeuring van die Minister en onderworpe aan die bedinge en voorwaardes wat hy bepaal, inkort of staak nie.

(2) Indien 'n verbruiker insolvent is of versuim om enige bedrag aan 'n waterraad verskuldig by wyse van 'n waterbelasting gehef ingevolge sub-artikel (1) van artikel *honderden-twintig* of by wyse van vorderings betaalbaar ten opsigte van water wat deur daardie raad aan hom verskaf is of staan te word, of by wyse van 'n storting of 'n addisionele storting wat

(4) In the exercise of the powers conferred upon a water board by paragraphs (h) and (m) of sub-section (1) and sub-section (3), as little damage as possible shall be caused, and such compensation as may be agreed upon, or failing agreement determined by a competent court, shall be paid by the said board for all damage so caused, or otherwise the said board shall repair any such damage.

(5) The provisions of sub-section (7) of section *one hundred and forty-one* shall *mutatis mutandis* apply with reference to the exercise of any of the powers mentioned in paragraph (m) of sub-section (1) of this section in relation to any such road as is referred to in the firstmentioned sub-section.

111. (1) A water board shall, as soon as possible after its constitution, proceed in consultation with the department, to investigate the question of establishing or acquiring a scheme or schemes for the purpose of supplying water within its area, and if it is of opinion that the establishment or acquisition of a scheme or schemes is necessary and feasible, it shall submit a report of its proposals to the Minister.

Establishment or acquisition of scheme by a water board.

(2) If the Minister approves of any proposals submitted to him under sub-section (1), he may authorize the water board to raise by way of loans as hereinafter provided, the capital moneys necessary for financing the establishment or acquisition of such scheme or schemes in accordance with the provisions of this Chapter.

(3) No scheme shall be established or acquired by a water board, nor shall the proposals for the establishment of any scheme approved by the Minister be substantially departed from, nor shall any existing scheme be substantially extended or altered, without the prior approval of the Minister.

112. A water board shall in the exercise of the powers conferred upon it under this Chapter have the same powers as are by section *ninety-four* vested in an irrigation board and the provisions of that section shall *mutatis mutandis* apply in relation to a water board.

Powers of expropriation of a water board.

113. (1) Subject to the provisions of this Act, a water board may—

Supply of water by a water board.

(a) supply water in bulk for urban use to any local authority within the area of the board which makes application therefor and undertakes to accept and distribute such water to consumers within the area of its jurisdiction;

(b) supply water either in bulk or otherwise, to any department of State, including the South African Railways and Harbours Administration and any provincial administration, or to any person engaged in prospecting, mining, industry, agriculture or any other undertaking, or to any other person making application therefor and agreeing to accept the same: Provided that, unless the Minister otherwise directs, no water shall be supplied to any consumer who is within the area of jurisdiction of any local authority which is being supplied by such water board with water in bulk, or if such consumer is being supplied by such local authority with water from another source, except with the consent of that local authority.

(2) No person shall be entitled to a supply of water from a water board for any premises having a separate supply of water unless such person has agreed to pay, or has given security to pay such minimum annual sum as will in the opinion of the Minister give the water board a reasonable return on such expenditure as may be incurred by the board in order to meet the possible maximum demand for those premises.

114. (1) A water board shall not, except as provided in sub-section (2), reduce or discontinue the supply of water to a consumer, as stipulated in the contract of supply, without the prior approval of the Minister and subject to such terms and conditions as he may impose.

Non-payment for water supplied.

(2) If a consumer is insolvent or fails to pay any amount due to a water board in respect of a water rate assessed in terms of sub-section (1) of section *one hundred and twenty* or by way of charges payable in respect of water supplied or to be supplied to him by that board, or by way of any deposit or additional

van hom vereis word of 'n ander bedrag deur hom aan die raad verskuldig ten opsigte van die verskaffing van water of die aanlê of voorsiening van uitrusting, apparaat, toestelle of ander bykomstige werke in verband met sodanige verskaffing, te betaal, kan bedoelde raad die voorsiening van water aan daardie verbruiker staak tot tyd en wyl bedoelde waterbelasting of bedoelde vorderings, tesame met die vorderings vir die af- en heraandraai van die water ten volle vereffen is.

(3) Geen staking ingevolge sub-artikel (2) van die voorsiening van water aan 'n verbruiker deur 'n waterraad, onthef enigemand van aanspreeklikheid ten opsigte van die tydperk van sodanige staking vir waterbelasting of vorderings deur so iemand verskuldig, en bedoelde raad is onder geen verpligting om nadat die verskuldigde bedrag betaal is water waarvan die voorsiening aldus gestaak is, te voorsien of om vergoeding vir verlies as gevolg van die staking van voorsiening van bedoelde water deur iemand gely, te betaal nie.

(4) Die bepalings van sub-artikels (3) en (4) van artikel *twee-en-negentig* is *mutatis mutandis* van toepassing ten opsigte van enige waterbelasting of vorderings verskuldig aan 'n waterraad.

Lys van standaard-
pryse van
voorsiening.

115. (1) 'n Waterraad voorsien nie water aan 'n verbruiker nie alvorens die raad 'n lys van standaardpryse, wat minimum pryse ten opsigte van bepaalde tydperke kan insluit, wat deur bedoelde waterraad vir die voorsiening van water aan die verskillende klasse verbruikers gevorder kan word, aan die Minister voorgelê en van hom goedkeuring daarvan verkry het.

(2) 'n Waterraad kan met goedkeuring van die Minister van tyd tot tyd sy lys van standaardpryse wysig, en indien ingevolge sub-artikel (2) van artikel *honderd-en-agt* 'n verandering aan die grense van 'n waterraad se gebied aangebring word, waarvolgens 'n nuwe gebied in so 'n gebied ingesluit word, kan die raad met goedkeuring van die Minister 'n lys van standaardpryse vir die voorsiening van water in daardie nuwe gebied uitreik wat van die lys van standaardpryse van toepassing op die vorige gebied van die raad verskil, asof sodanige voorsiening onder 'n aparte skema soos in artikel *honderd-en-agtien* bepaal, geskied.

Vorderings vir
voorsiening van
water deur 'n
waterraad.

116. (1) (a) Alle vorderings deur 'n waterraad gehef vir die voorsiening van water aan verbruikers, is soos vermeld in die lys van standaardpryse deur die Minister goedgekeur: Met dien verstande dat, behoudens die bepalings van sub-artikel (2), 'n waterraad sy pryse bo of onder die standaardprys kan wissel met behoorlike inagneming van—

- (i) die hoeveelheid water verbruik;
- (ii) die eenvormigheid of reëlmatigheid van aanvraag;
- (iii) die tyd wanneer of waarbinne die water benodig word;
- (iv) die uitgawe van die waterraad om die voorraad te voorsien; of
- (v) enige spesiale omstandighede wat mag besaam.

(b) Indien 'n geskil tussen die waterraad en 'n verbruiker of verbruikersvereniging ontstaan betreffende enige wisseling van die pryse vir water wat voorsien word, moet die saak verwys word na die Minister wie se beslissing daaroor afdoende is.

(2) Geen reëling tussen 'n waterraad en 'n verbruiker ingevolge waarvan 'n vordering aan daardie verbruiker laer as die standaardprys sal wees, is geldig nie, tensy die Minister die vermindering goedgekeur het.

(3) 'n Waterraad moet 'n volledige lys van die pryse wat deur sy verskillende klasse verbruikers betaal moet word, en van enige wysigings aan enige sodanige lys, so gou moontlik na goedkeuring daarvan deur die Minister in die *Staatskoerant* en in een of meer nuusblaaië wat in sy gebied in omloop is, afkondig.

(4) Geen voordele, kortings, voorkeure of voorregte mag aan enige verbruiker toegestaan word nie behalwe soos in hierdie Hoofstuk bepaal.

Pryse bereken te
word.

117. (1) Die pryse deur 'n waterraad bereken te word vir water deur hom voorsien, moet voldoende wees tot dekking van—

- (a) die bedryfskoste van alle skemas deur hom onderneem, insluitende koste van distribusie, onderhoud en administrasie;
- (b) die bedrag vereis aan rente op gelde by wyse van lening opgeneem (insluitende voorskotte in sub-artikel (5))

deposit required of him or other amount due by him to the board in respect of the supply of water or the installation or supply of fittings, apparatus, appliances or other appurtenant works in connection with such supply, the said board may discontinue the supply of water to that consumer until such water rate or such charges together with the charges for disconnection and reconnection of such supply are fully paid.

(3) No cessation under sub-section (2) of the supply of water to a consumer by a water board shall relieve any person from any liability in respect of the period of such cessation for any water rates or charges due by such person, and such board shall not be obliged, after the amount due has been paid, to supply any water so discontinued or to pay compensation for any loss sustained by any person consequent upon the discontinuation of the said water.

(4) The provisions of sub-sections (3) and (4) of section ninety-two shall *mutatis mutandis* apply in relation to any water rates or charges due to a water board.

115. (1) A water board shall not supply water to any consumer before it has submitted to the Minister and has obtained his approval of a schedule of standard prices, which may include minimum prices in respect of specified periods, chargeable by such water board for the supply of water to the various classes of consumers. Schedule of standard prices of supply.

(2) A water board may with the approval of the Minister from time to time amend its schedule of standard prices, and if any alteration of the boundaries of the area of a water board is made in terms of sub-section (2) of section *one hundred and eight*, in accordance with which any new area is included in such area, the board may, with the approval of the Minister, issue a schedule of standard prices for the supply of water in such new area different from the schedule of standard prices applicable to the former area of the board, as though such supply were under a separate scheme as provided in section *one hundred and eighteen*.

116. (1) (a) Any charges made by a water board for the supply of water to consumers shall be those specified in the schedule of standard prices approved by the Minister: Provided that a water board may, subject to the provisions of sub-section (2), vary its prices either above or below the standard price with due regard to— Charges for supply of water by a water board.

- (i) the amount of water consumed;
- (ii) the uniformity or regularity of demand;
- (iii) the time when or during which the water is required;
- (iv) the expenditure of the water board in furnishing the supply; or
- (v) any special circumstances which may exist.

(b) If any dispute arises between the water board and any consumer or association of consumers as to any variation of prices for water supplied, the matter shall be referred to the Minister whose decision thereon shall be final.

(2) No arrangement between a water board and any consumer whereby any charge to that consumer will be reduced below the standard price shall be valid unless the reduction has been approved by the Minister.

(3) A water board shall publish in the *Gazette* and in one or more newspapers circulating in its area, a complete list of the prices to be paid by its various classes of consumers and of any amendments to any such list as soon as possible after approval thereof by the Minister.

(4) No advantages, rebates, preferences or privileges shall be granted to any consumer except as provided in this Chapter.

117. (1) The prices to be charged by a water board for water supplied by it shall be such as to cover— Prices to be charged.

- (a) the cost of operation of all schemes undertaken by it, including costs of distribution, maintenance and administration;
- (b) the amount required for interest on moneys raised by way of loan (including advances referred to in sub-

van artikel *honderd een-en-twintig* bedoel), delging van sodanige lenings of voorskotte en ander uitgawes in verband daarmee; en

(c) die bedrae wat volgens artikel *honderd vyf-en-twintig* jaarliks afgesonder moet word.

(2) Die pryse deur 'n waterraad gevra te word vir water aan sy verskillende klasse verbruikers voorsien, word volgens voorskrif van sub-artikel (1) van artikel *honderd-en-vyftien* en artikel *honderd-en-sestien* gereël, en die waterraad moet sy pryse vir alle klasse verbruikers in gelyke verhoudings verhoog of verminder wanneer hy enige aanpassing in pryse ooreenkomstig die bepalinge van hierdie artikel aanbring.

(3) Indien daar gedurende 'n boekjaar van 'n waterraad 'n surplus of tekort ontstaan nadat vir die koste en ander bedrae in sub-artikel (1) genoem, voorsiening gemaak is, word daardie surplus of tekort na die volgende boekjaar oorgedra en word by die aanpassing van vorderings vir water gedurende daardie jaar voorsien te word, daarmee rekening gehou.

(4) Dit is 'n algemene beginsel van 'n waterraad dat sy skemas sover doenlik gedryf moet word sodat daar geen wins of verlies is nie, en die vorderings vir water deur so 'n raad voorsien en enige belastinge kragtens artikel *honderd-en-twintig* deur hom gehef, moet van tyd tot tyd dienoreenkomstig aangepas word.

Verskillende pryse vir verskillende skemas.

118. (1) (a) Indien 'n waterraad meer as een watervoorsieningskema dryf, word by die berekening of aanpassing van die pryse gevra te word, soos in artikel *honderd-en-sewentien* bepaal, behoudens die bepalinge van sub-artikel (2), elkeen van daardie skemas afsonderlik in aanmerking geneem.

(b) Afsonderlike rekenings van die uitgawes van elke skema moet gehou word, waarop die werklike uitgawe van die raad met betrekking daartoe aangewys word, en 'n billike aanpassing van die administrasie- en bestuurkoste, die bedrag van rente en delgingskoste en ander voorsienings vir uitgawes waarvoor in hierdie Hoofstuk voorsiening gemaak word, moet tussen die verskillende skemas gedoen word.

(2) Wanneer daar volgens die Minister se oordeel spesiale omstandighede bestaan wat dit vir 'n waterraad onwenslik of ondoenlik maak om aan die bepalinge van sub-artikel (1) te voldoen, kan hy daardie raad magtig om enigeen van of al die watervoorsieningskemas wat hy dryf in aanmerking te neem.

Betaling vir water voorsien en rente op agterstallige betalings.

119. (1) (a) Betaling vir water wat deur 'n waterraad aan 'n verbruiker voorsien is, moet binne dertig dae na lewering van 'n rekening daarvoor deur daardie raad geskied.

(b) Sodanige betaling moet by bedoelde raad se kantoor geskied of, na gelang van die geval, aan 'n plaaslike bestuur waarmee bedoelde raad 'n ooreenkoms aangegaan het waarvolgens daardie plaaslike bestuur onderneem het om sodanige betaling namens bedoelde raad in te vorder.

(2) Op alle bedrae wat ten opsigte van water gedurende enige maand voorsien, verskuldig geraak het en wat nie volgens voorskrif van sub-artikel (1) betaal word nie, is rente deur die waterraad hefbaar en invorderbaar teen so 'n koers vir elke maand of gedeelte van 'n maand wat daardie bedrae uitstaande is as wat by verordening ingevolge artikel *honderd ses-en-dertig* uitgevaardig, voorgeskryf mag word.

(3) Sodanige rente is op dieselfde wyse verhaalbaar as bedrae verskuldig ten opsigte van water wat voorsien is.

Waterbelasting.

120. (1) Ter bestryding van enige uitgawes wat ingevolge hierdie Hoofstuk of die kragtens artikel *honderd agt-en-dertig* uitgevaardigde regulasies deur hom aangegaan is of sal word, kan 'n waterraad met goedkeuring van die Minister jaarliks ooreenkomstig regulasies deur die Minister uitgevaardig, 'n belasting, genoem 'n waterbelasting, op enige grond binne sy gebied hef en invorder.

(2) 'n Belasting kragtens sub-artikel (1) gehef, moet op die by regulasie voorgeskrewe tye deur die aldus voorgeskrewe persone betaal word.

(3) (a) So 'n belasting moet teen 'n eenvormige bedrag per morg grond of op die ander grondslag wat die Minister bepaal, gehef word: Met dien verstande dat 'n waterraad met toestemming van die Minister belastinge op en ten opsigte van enige oppervlakte grond wat 'n bepaalde omvang te bowe gaan, kan hef teen 'n skaal wat verskil van die skaal van belastinge op en ten op-

section (5) of section *one hundred and twenty-one*), redemption of such loans or advances and other expenditure incidental thereto; and

- (c) the amounts to be set aside annually under section *one hundred and twenty-five*.

(2) The prices to be charged by a water board for water supplied to its various classes of consumers shall be regulated as prescribed in sub-section (1) of section *one hundred and fifteen* and in section *one hundred and sixteen*, and the water board shall increase or decrease its prices for all classes of consumers in equal proportions when making any adjustment of prices in accordance with the provisions of this section.

(3) If there be any surplus or deficit in any financial year of a water board, after providing for the cost and other amounts referred to in sub-section (1), such surplus or deficit shall be carried forward to the next financial year and allowance made therefor in adjusting the charges for water to be supplied during that year.

(4) It shall be a general principle of a water board that its schemes shall, as far as practicable, be carried on neither at a profit nor at a loss, and the charges for water supplied by such board and any rates assessed by it in terms of section *one hundred and twenty* shall be adjusted accordingly from time to time.

118. (1) (a) If a water board carries on more than one water supply scheme, each such scheme shall, subject to the provisions of sub-section (2), be separately taken into account when the prices to be charged as provided in section *one hundred and seventeen* are being assessed or adjusted. Different prices for different schemes.

- (b) Separate accounts shall be kept of the expenditure of each scheme showing the actual expenditure by the board relative thereto, and a fair adjustment of the overhead and administration charges, the amount of interest and redemption charges and other allowances for expenditure provided for in this Chapter shall be made between the various schemes.

(2) Whenever in the opinion of the Minister special circumstances exist which render it undesirable or impracticable for a water board to comply with the provisions of sub-section (1), he may authorize such board to take into account all or any of the water supply schemes carried on by it.

119. (1) (a) Payment for water supplied by a water board to any consumer shall be made within thirty days of the rendering of an account therefor by such board. Payment for water supplied and interest on payments in arrear.

- (b) Such payment shall be made at such board's office or, as the case may be, to any local authority with whom the said board may have entered into an agreement in terms of which such local authority has undertaken to collect such payment on behalf of the said board.

(2) On all sums which shall have become due in respect of water supplied during any month, and which are not paid as provided in sub-section (1), interest shall be chargeable and recoverable by the water board at such rates for every month or portion of a month during which those sums remain unpaid, as may be prescribed by by-laws made under section *one hundred and thirty-six*.

(3) Such interest shall be recoverable in the same manner as sums due in respect of water supplied.

120. (1) To defray any expenditure incurred or to be incurred by it under this Chapter or the regulations made under section *one hundred and thirty-eight*, a water board may, subject to the approval of the Minister, assess and collect annually a rate, to be called a water rate, on any land within its area, in accordance with regulations made by the Minister. Water rates.

(2) Any rate imposed under sub-section (1) shall be payable by the persons prescribed by regulation at such times as may be so prescribed.

- (3) (a) Such rates shall be assessed at a uniform amount per morgen of land or on such other basis as the Minister may determine: Provided that a water board may, with the consent of the Minister, assess rates on and in respect of any area of land in excess of a determined extent at rates different from the rates assessed upon

sigte van ander grond hehef, of so 'n belasting ten opsigte van enige grond kan varieer volgens die doeleindes waarvoor water vir gebruik op daardie grond verskaf, gebruik word of bestem is om gebruik te word.

- (b) Indien 'n waterbelasting op grond binne die regsgebied van 'n plaaslike bestuur hehef word, is daardie plaaslike bestuur verplig en gemagtig om die belasting op die by regulasie voorgeskrewe wyse in te vorder en om die aldus ingevorderde gelde, min die invorderingsgelde (as daar is) wat aldus voorgeskryf mag word, aan die betrokke waterraad oor te betaal.
- (4) Enige belasting ingevolge sub-artikel (1) hehef, is bykomstig by enige vorderings deur 'n waterraad hehef vir water ingevolge hierdie Hoofstuk deur hom voorsien, en nie ter vervanging van sodanige vorderings nie.
- (5) 'n Waterraad mag nie sonder die Minister se toestemming 'n belasting op grond ingevolge hierdie artikel hehef ten opsigte van enige tydperk na die datum waarop die raad water vir gebruik op die grond begin lewer nie.

Leningsbevoegd-
hede van 'n
waterraad en
terugbetalings van
lenings en voor-
skotte.

121. (1) 'n Waterraad kan van tyd tot tyd, nadat hy die goedkeuring van die Minister verkry het, by wyse van lening gelde opneem tot sodanige bedrae as wat die Minister mag magtig, en op die voorwaardes wat hy mag goedkeur, vir—

- (a) die instelling, bou, verkryging of uitbreiding van enige skema tesame met alle bybehore;
 - (b) die verkryging van grond, regte of ander eiendom in sub-artikel (1) van artikel *honderd-en-tien* bedoel;
 - (c) die terugbetaling van gelde ingevolge sub-artikel (5) aan hom voorgeskiet;
 - (d) die aflossing van sekuriteit vir enige gedeelte van 'n lening;
 - (e) die bestryding van administratiewe en bykomende uitgawes van bedoelde raad tot op die datum waarop hy water begin verskaf, in watter geval die lening terugbetaal moet word op of voor die laaste dag van die boekjaar van die raad waarin hy aldus begin verskaf, of, met goedkeuring van die Minister, op of voor so 'n latere datum as wat hy mag bepaal, maar nie meer as vyf jaar na bedoelde dag nie;
 - (f) die betaling van rente ten opsigte van enige lening aangegaan vir die doeleindes van of in verband met die instelling van 'n watervoorsieningskema en die betaling van paaielemente van kapitaal of die maak van ander voorsiening vir die delging van so 'n lening, in watter geval die lening terugbetaal moet word op of voor die laaste dag van die boekjaar waarin die raad water begin verskaf, of, met goedkeuring van die Minister, op of voor so 'n latere datum as wat hy bepaal, maar nie meer as vyf jaar na bedoelde dag nie;
 - (g) die toestaan van lenings in geen geval honderd pond te bowe gaande nie, aan geregistreerde eienaars van onroerende eiendom vir die aanlê daarop van waterpype en toebehore in verband met die verskaffing van water vir huishoudelike doeleindes, en so 'n lening is 'n skuld deur die eenaar en sy regsopvolgers aan die waterraad verskuldig, wat rente dra teen 'n koers deur bedoelde raad bepaal (welke koers voldoende moet wees om die koste deur die raad in verband met sodanige lening aangegaan, te dek) en is terugbetaalbaar in gelyke maandelike paaielemente, tesame met rente, oor so 'n tydperk van hoogstens vyf jaar vanaf die datum van die lening as wat die waterraad mag bepaal.
- (2) (a) 'n Waterraad maak voorsiening vir die delging van elke lening of voorskot aan hom gemaak of deur hom verkry deur middel van 'n beëindigbare jaargeld of deur betaling van jaarlikse of half-jaarlikse paaielemente van kapitaal en rente of deur middel van 'n amortisasiefonds.
- (b) 'n Waterraad moet 'n afsonderlike rekening van enige amortisasiefonds wat hy mag instel, laat hou.
 - (c) Indien 'n waterraad 'n amortisasiefonds instel, moet hy elke jaar in daardie fonds 'n bedrag stort wat tesame met opgehoopde rente voldoende sal wees om die lening of voorskot binne die tydperk daarvan of binne so 'n verdere tydperk as wat die Minister mag bepaal, te delg.
 - (d) Die eerste paaielement ten opsigte van gelde werklik in enige boekjaar geleen, word op die een-en-dertigste dag van Desember van die eersvolgende boekjaar na

and in respect of other land, or vary any such rate in respect of any land according to the purposes for which water supplied for use on that land is or is intended to be used.

- (b) If a water rate is imposed upon any land within the area of jurisdiction of a local authority, such local authority shall be required and authorized to collect the same in such manner as may be prescribed by regulation, and to pay the moneys so collected to the water board concerned less such charges, if any, for collection as may be so prescribed.

(4) Any rate assessed in terms of sub-section (1) shall be in addition to and not in substitution for any charges made by a water board for water supplied by it under this Chapter.

(5) A water board shall not, without the consent of the Minister, assess any rate on land under this section in respect of any period after the date on which it commences to supply water for use on the land.

121. (1) A water board may from time to time, after obtaining the approval of the Minister, raise moneys by way of loan in such amounts as the Minister may authorize and on such conditions as he may approve, for the purpose of—

Borrowing powers of a water board and repayments of loans and advances.

- (a) establishing, constructing, acquiring or extending any scheme with all appurtenances thereto;
 - (b) acquiring such land, rights or other property as is referred to in sub-section (1) of section *one hundred and ten*;
 - (c) repaying any moneys advanced to it under sub-section (5);
 - (d) redeeming any security for any part of a loan;
 - (e) meeting the administrative and incidental expenses of the said board up to the date on which it commences to supply water, such loan being repayable on or before the last day of the financial year of the board during which it so commences to supply, or, with the approval of the Minister, on or before such later date as may be fixed by him, not being more than five years after the said day;
 - (f) paying interest in respect of any loan raised for the purposes of or in connection with the establishment of any water supply scheme and meeting payments of instalments of principal or making other provision for the redemption of such loan, the said loan being repayable on or before the last day of the financial year of the board during which it commences to supply water or, with the approval of the Minister on or before such later date as may be fixed by him, not being more than five years after the said day;
 - (g) making loans, not exceeding in any case one hundred pounds, to registered owners of immovable property for the installation thereon of water piping and fittings in connection with the supply of water for domestic purposes, every such loan being a debt due to the water board by the owner and his successors in title, bearing interest at a rate to be fixed by the said board (which rate shall be sufficient to cover the costs incurred by the board in connection with such loan) and shall be repayable in equal monthly instalments together with interest over such period not exceeding five years from the date of the loan as may be determined by the water board.
- (2) (a) Provision shall be made by a water board for the redemption of every loan or advance made to or obtained by it by means of a terminable annuity or by the payment of yearly or half-yearly instalments of principal and interest or by means of a sinking fund.
- (b) A water board shall cause a separate account to be kept of any sinking fund which it may establish.
- (c) If a water board establishes a sinking fund, it shall in every year pay into that fund such an amount as will with accumulations of interest be sufficient to redeem the loan or advance within the period thereof, or within such further period as the Minister may determine.
- (d) The first instalment in respect of moneys actually borrowed in any financial year shall be paid to the sinking fund on the thirty-first day of December of the

- die boekjaar waarin sodanige gelde opgeneem is, in die amortisasiefonds gestort, en daarna word 'n paalement betaal op die een-en-dertigste dag van Desember van elke jaar totdat die aldus geleende gelde terugbetaal is of totdat die gelde in die amortisasiefonds gelyk is aan 'n bedrag wat tesame met ophopende rente voldoende sal wees om die lening op die vervaldag terug te betaal.
- (e) Die bedrag in paragraaf (c) bedoel, word bereken op die grondslag van ophopende rente teen die rentevoet betaalbaar op die geleende geld, en enige tekort aan die end van 'n boekjaar van die betrokke raad word uit sy inkomste gedek.
- (f) Enige surplus van 'n amortisasiefonds wat oorbly na die delging van al die skuld vir die terugbetaling waarvan dit ingestel was, word aangewend vir die kapitaaldoeleindes wat die betrokke waterraad met toestemming van die Minister mag bepaal.
- (3) 'n Waterraad moet alle gelde in 'n deur hom ingestelde amortisasiefonds inbetaal, by ontvangs in een of meer van die volgende sekuriteite belê, te wete—
- (a) Tesouriebiljette, obligasies of ander sekuriteite wat 'n las is teen die inkomste van die Regering; of
- (b) effekte, obligasies of ander sekuriteite van 'n plaaslike bestuur of ander statutêre liggaam in die Unie wat op 'n gelisensieerde effektebeurs genoteer word of deur die Minister goedgekeur is; of
- (c) op vaste deposito teen rente by 'n bankinrigting of bougenootskap in die Unie: Met dien verstande dat die totale bedrag te eniger tyd aldus belê, nie die som van vyf jaarlikse paalemente in genoemde amortisasiefonds inbetaal, afgesien van rente, te bowe mag gaan nie.
- (4) (a) 'n Waterraad kan ook met goedkeuring van die Minister gelde leen by wyse van oortrekking by sy bankiers of andersins, om sy gewone uitgawes te bestry, tot 'n bedrag wat die totale inkomste van die raad gedurende sy voorafgaande boekjaar of, in die geval van 'n nuwe waterwerk, die geraamde inkomste vir die lopende boekjaar nie te bowe gaan nie.
- (b) By die toepassing van hierdie sub-artikel word onder „gewone uitgawes” inbegrepe uitgawes in verband met die aankoop van verbruiksvoorrade vir toekomstige gebruik, maar die koste van sodanige voorrade moet teen die gepaste rekening aangeteken word wanneer die voorrade vir gebruik uitgereik word.
- (5) Die Minister kan uit gelde deur die Parlement vir die doel beskikbaar gestel, en behoudens die bedinge en voorwaardes wat die Minister mag goedvind om voor te skryf, aan 'n waterraad gelde voorskiet ten einde die raad in staat te stel om sy werksaamhede, pligte of bevoegdhede uit te voer of uit te oefen, of in afwagting van inkomste verkry te word uit 'n skema of skemas wat hy ingevolge hierdie Hoofstuk gemagtig is om te verkry of in te stel: Met dien verstande dat geen voorskot gemaak word nie ten opsigte van enige waterwerk waarvan die totale koste (soos deur die Minister geraam) by voltooiing as 'n selfstandige skema meer as dertigduisend pond bedra, tensy 'n verslag oor die voorgestelde werk in beide Huisse van die Parlement ter Tafel gelê is en sodanige voorskot by besluit van beide bedoelde Huisse goedgekeur is.

Waterraadfondse.

122. (1) Alle gelde bestaande uit waterbelastinge, water-vorderings en ander vorderings of bedrae gehef of opgelê of verhaalbaar deur of betaalbaar aan 'n waterraad ingevolge hierdie Hoofstuk of die regulasies daaronder uitgevaardig of die verordeninge van 'n waterraad maak, indien nie vir 'n ander fonds of rekening van die waterraad aangewend nie, 'n fonds uit wat die waterraadinkomsterekening genoem word.

(2) Alle gelde by wyse van lening deur 'n waterraad opgeneem, insluitende voorskotte ingevolge sub-artikel (5) van artikel honderd een-en-twintig deur die Minister vir kapitaaldoeleindes aan hom gemaak, word gestort in die fonds of rekening waarvoor die lening gemagtig en opgeneem is of waarvoor die voorskot betaal is, en indien die doel waarvoor die lening aangegaan of die voorskot betaal was, bereik of laat vaar is, kan enige onbestede saldo van die gelde aldus opgeneem of betaal, met toestemming van die Minister vir enige ander doel aangewend word, en daarna word sodanige saldo op die betrokke kapitaalrekening oorgedra.

(3) Alle gelde deur 'n waterraad ontvang uit die verkoop van vasgoed of ander bates uit kapitaalgelde verkry, word

financial year next succeeding that in which such moneys were raised, and thereafter an instalment shall be paid on the thirty-first day of December of each year until the moneys so borrowed shall have been repaid, or until the moneys in the sinking fund amount to a sum which with the interest accruing will be sufficient to redeem the loan on due date.

- (e) The amount referred to in paragraph (c) shall be computed on the basis of accumulating interest at the rate of interest payable on the moneys borrowed, and any shortage at the end of a financial year of the board concerned shall be met from its revenue.
 - (f) Any surplus of a sinking fund remaining after the redemption of the whole of the moneys for the repayment of which it was formed, shall be applied to such capital purpose as the water board concerned may, with the consent of the Minister, determine.
- (3) A water board shall invest all moneys paid into any sinking fund established by it, as and when received, in one or more of the following securities, namely—

- (a) Treasury bills, debentures or other securities chargeable upon the revenue of the Government; or
 - (b) stock, debentures or other securities of any local authority or other statutory body in the Union which are quoted on a licensed stock exchange or have been approved by the Minister; or
 - (c) on fixed deposit at interest with any banking institution or building society in the Union: Provided that the total amount so invested at any one time shall not exceed the sum of five annual instalments paid into the said sinking fund, exclusive of interest.
- (4) (a) A water board may also, with the approval of the Minister, borrow moneys by way of overdraft from its bankers, or otherwise, to defray its ordinary expenditure, not exceeding the total income of the board for its preceding financial year or, in the case of a new water work, the estimated income for the current financial year.
- (b) For the purposes of this sub-section "ordinary expenditure" includes expenditure in connection with the purchase of consumable stores for future use, but the cost of such stores shall be recorded against the appropriate account as and when the stores are issued for use.

(5) The Minister may out of moneys provided by Parliament for the purpose, and subject to such terms and conditions as the Minister may deem fit to prescribe, advance moneys to a water board to enable it to carry out any of its functions, duties or powers, or in anticipation of revenue to be raised under any scheme or schemes which in terms of this Chapter it is authorized to acquire or establish: Provided that no advance shall be made in respect of any water work the total cost of which (as estimated by the Minister) will exceed when completed as an independent scheme thirty thousand pounds, unless a report on the proposed work has been laid on the Tables of both Houses of Parliament and such advance has been approved by resolution of both such Houses.

122. (1) All moneys consisting of water rates, water charges and other charges or sums levied or imposed or recoverable by or payable to a water board in terms of this Chapter or the regulations made thereunder or the by-laws of any water board shall, if not appropriated to any other fund or account of the water board, form a fund to be called the water board revenue account. Water board funds.

(2) All moneys raised by a water board by way of loan, including advances made to it by the Minister in terms of sub-section (5) of section *one hundred and twenty-one* for capital purposes, shall be paid to the fund or account for which the loan was authorized and raised or for which the advance was paid, and if the purpose for which the loan was raised or the advance was paid, is completed or abandoned, any balance remaining unexpended of the moneys so raised or paid, may with the consent of the Minister be applied to any other purpose, whereupon such balance shall be transferred to the capital account concerned.

(3) All moneys received by a water board from the sale of immovable property or other assets acquired out of capital

betaal aan die kapitaalrekening waaruit die koste daarvan oorspronklik bestry is, tensy die Minister bedoelde raad magtig om daardie gelde vir 'n ander doel aan te wend.

(4) Alle gelde deur 'n waterraad vir 'n spesifieke doel of ten opsigte van 'n spesiale fonds of rekening opgeneem of ontvang, word aan die gepaste fonds of rekening betaal en word, behalwe vir sover in hierdie Wet anders bepaal, aangewend slegs vir die doel waarvoor dit opgeneem of ontvang is.

Rekenings.

123. (1) Die boekjaar van 'n waterraad eindig op die een-en-dertigste dag van Desember van elke jaar.

(2) 'n Waterraad laat sodanige rekeningboeke hou as wat nodig mag wees om behoorlik aantekening te hou van alle sake betreffende die finansiële transaksies van die waterraad, insluitende alle kontant-ontvangste en -betalings, die inkomste verdien maar nog nie ontvang nie, en uitgawes aangegaan maar nog nie betaal nie, met behoorlike onderskeiding in elke geval tussen kapitaal en inkomste, en wat in die algemeen die bates en laste van die raad aanwys.

(3) (a) 'n Waterraad laat voormelde boeke nie later nie as drie maande na die einde van elke boekjaar afsluit en balanseer tot die einde van daardie jaar, en moet binne een maand daarna afsonderlike inkomste- en uitgawerekenings en balansstate van die inkomsterekening en van alle ander fondse of rekenings laat opstel.

(b) Bedoelde raad moet ook 'n totale balansstaat laat opstel waarin in opsommingsvorm al die laste en bates van die raad aangegee word.

(c) Bedoelde rekenings en balansstate moet in elke geval duidelik tussen kapitaal en inkomste onderskei.

Begrotings van inkomste en uitgawes.

124. (1) 'n Waterraad moet nie later nie as die dertigste dag van April in elke jaar 'n begroting van inkomste en uitgawes vir die lopende boekjaar ten opsigte van die waterraad-inkomsterekening opstel, en moet daarna 'n kennisgewing in een of meer nuusblaai in omloop in die raad se gebied laat publiseer wat 'n uittreksel van daardie begroting bevat en 'n verklaring dat die begroting vir 'n tydperk van minstens sewe dae vanaf die datum van die eerste publikasie by die kantoor van bedoelde raad vir insae beskikbaar is, en 'n dergelike kennisgewing op die openbare kennisgewingsbord by die raad se kantoor laat vertoon.

(2) Wanneer hy die in sub-artikel (1) bedoelde begroting opstel, moet 'n waterraad ook 'n begroting van inkomste en uitgawes ten opsigte van alle ander fondse of rekenings opstel, en in elke geval tussen inkomste- en kapitaalrekenings onderskei.

(3) In geen geval mag die begroting van uitgawes uit 'n besondere fonds, met inbegrip van enige tekort wat oorgedra word, die begroting van inkomste op die inkomsterekening van daardie fonds oorskry nie, tensy terselfdertyd vir die bestryding van die oorskryding voorsiening gemaak word: Met dien verstande dat met voorafgaande goedkeuring van die Minister en op die bedinge en voorwaardes wat hy voorskryf, 'n waterraad tot die end van die tweede boekjaar onmiddellik na die boekjaar waarin hy water begin voorsien het, enige jaarlikse tekort of enige deel daarvan, maar in die geheel hoogstens vyf persent van die raad se uitgawe uit leningsgeld, uit leningsgeld kan bestry.

(4) Die begroting van uitgawes op die kapitaalrekening mag in geen geval die bedrag aan kapitaalgelde wat vir die besondere diens beskikbaar is, met inbegrip van gelde wat nog kragtens leningsbevoegdheid vir daardie diens opgeneem moet word, te bowe gaan nie.

Hernuwings- en reserwefondse.

125. (1) 'n Waterraad moet jaarliks uit sy inkomsterekening die bedrae afsonder wat nodig is om die koste van hernuwing van sy bestaande bates of werke te bestry, hetsy die eerste koste uit leningsfondse of uit gelde deur die Minister vir kapitaaldoeleindes voorgeskiet, betaal was: Met dien verstande dat met toestemming van die Minister, geen bedrag aldus afgesonderd hoeft te word nie ten opsigte van 'n bate of werk wat 'n gesertifiseerde leeftyd het wat nie minder is nie as die tydperk van 'n lening in verband daarmee aangegaan, en dat die Minister op aansoek van 'n waterraad vrystelling van voldoening aan die bepalinge van hierdie sub-artikel kan verleen vir 'n tydperk van hoogstens vyf jaar vanaf 'n datum waarop 'n watervoorsieningskema deur bedoelde raad ingestel, in werking gestel word.

(2) 'n Waterraad moet die bedrae aldus as 'n hernuwingsfonds afgesonder, belê in die sekuriteite en op die wyse bepaal met betrekking tot 'n amortisasiefonds in sub-artikels (2) en (3) van artikel honderd een-en-twintig bedoel.

moneys, shall be paid to the capital account out of which the cost thereof was originally defrayed unless the Minister authorizes such board to utilize such moneys for any other purpose.

(4) All moneys raised or received by a water board for any specific purpose or in respect of any special fund or account shall be paid to the appropriate fund or account, and shall, save as is otherwise provided in this Act, be applied only to the purpose for which they were raised or received.

123. (1) The financial year of a water board shall end on the Accounts. thirty-first day of December in each year.

(2) A water board shall cause to be kept such books of account as may be necessary to maintain a proper record of all matters relating to the financial transactions of the water board, including all cash receipts and cash payments, the revenue earned but not received, and expenditure incurred but not paid, clearly distinguishing in each case between capital and revenue, and generally showing the assets and liabilities of the board.

(3) (a) A water board shall not later than three months after the close of each financial year cause the aforesaid books to be closed and balanced as at the end of such year, and shall within one month thereafter cause to be prepared separate income and expenditure accounts and balance sheets of the revenue account and of all other funds or accounts.

(b) Such board shall also cause to be prepared an aggregate balance sheet wherein shall be included in summarized form the whole of the liabilities and assets of the board.

(c) The said accounts and balance sheets shall clearly distinguish between capital and revenue in each case.

124. (1) A water board shall not later than the thirtieth day of April in each year, frame estimates of revenue and expenditure for the current financial year in respect of the water board revenue account, and shall thereafter cause to be published in one or more newspapers circulating in the area of the board a notice containing an abstract of such estimates and a statement that the estimates shall lie for inspection at the office of such board for a period of not less than seven days from the date of first publication, and cause similar notice to be exhibited on the public notice board at the board's office. Estimates of revenue and expenditure.

(2) A water board shall, when framing the estimates mentioned in sub-section (1), also frame estimates of revenue and expenditure in respect of all other funds or accounts, distinguishing in each case between revenue and capital accounts.

(3) In no case shall the estimates of expenditure from any particular fund, including any deficit brought forward, exceed the estimate of income on the revenue account of that fund, unless provision is simultaneously made for the excess expenditure to be met: Provided that with the prior approval of the Minister and subject to such terms and conditions as he may prescribe, a water board may up to the end of the second financial year immediately following the financial year in which it commenced to supply water, meet the whole or any part of any annual deficit from loan moneys not exceeding in all five per cent. of the board's expenditure from loan moneys.

(4) The estimate of expenditure on capital account shall in no case exceed the amount of capital moneys available for the particular service, including moneys still to be raised under borrowing powers for that service.

125. (1) A water board shall out of its revenue account set aside annually such sums of money as shall be necessary for the purpose of meeting the cost of charges for renewing its existing assets or works, whether the first cost was paid from loan funds or out of moneys advanced by the Minister for capital purposes: Provided that, with the consent of the Minister, no sum of money shall be required to be so set aside in respect of any asset or work having a certified life not less than the period of any loan raised in connection therewith, and that the Minister may, on the application of any water board, grant exemption from compliance with the provisions of this sub-section for a period not exceeding five years from a date on which a water supply scheme initiated by such board is put into operation. Renewals and reserve funds.

(2) A water board shall invest the sums so set apart as a renewals fund in the securities and in the manner provided in regard to a sinking fund referred to in sub-sections (2) and (3) of section one hundred and twenty-one.

(3) 'n Waterraad moet ook 'n register laat hou van al sy bates sodat die bedrag wat aan die hernuwingsfonds betaalbaar is te eniger tyd bepaal kan word.

(4) 'n Waterraad kan 'n reserwefonds instel waarin sodanige surplusgelde tot die beskikking van die raad gestort word as wat hy van tyd tot tyd bepaal, en enige gelde in so 'n fonds kan aangewend word vir die doeleindes wat die Minister goedkeur.

Oudit.

126. Die bepalings van sub-artikels (1) en (2) van artikel *ses-en-negentig* is *mutatis mutandis* van toepassing met betrekking tot 'n waterraad.

Beperkings op
plaaslike besture
en ander persone
in omskrewende
gebiede.

127. (1) Geen plaaslike bestuur binne die gebied van 'n waterraad wat deur daardie raad van water voorsien word, het die reg om behalwe met toestemming van daardie waterraad en teen die vorderings en onderworpe aan die voorwaardes wat daardie raad mag bepaal, water aan 'n verbruiker buite sy regsgebied te voorsien nie.

(2) Geen plaaslike bestuur en geen persoon wat water aan enigiemand binne bedoelde gebied verskaf, mag sonder goedkeuring vooraf van die Minister die voorsiening van water afkomstig uit 'n skema onder sy beheer uitbrei of vermeerder of enige reëling aangaan om water andersins as van die betrokke waterraad te verkry nie.

(3) Geen verbruiker (behalwe 'n plaaslike bestuur binne sy regsgebied) mag sonder toestemming van 'n waterraad, water wat hy van daardie raad gekoop het, aan iemand verkoop of verskaf aan wie die raad dan gemagtig is om te voorsien nie, en indien 'n verbruiker in stryd met hierdie sub-artikel water verkoop of verskaf, kan bedoelde waterraad benewens die vorderings ingevolge hierdie Hoofstuk gehef, teen daardie verbruiker 'n vordering hef teen 'n tarief van hoogstens driemaal die standaard-tarief wat van tyd tot tyd van krag is ten opsigte van water gedurende die tydperk van die oortreding aan hom voorsien.

Opbreek van
strate, ens. deur
'n waterraad.

128. (1) By die toepassing van hierdie artikel omvat „straat” ook enige pad, plein of oop of geslote openbare plek, waarvan die beheer of toesig by 'n plaaslike bestuur berus.

(2) Behoudens die bepalings van hierdie artikel, kan 'n waterraad vir die doeleindes van 'n gemagtigde skema enige straat opbreek en watergeleidings of pypleidings langs, onder of oor 'n straat aanlê of bou, en enige watergeleidings, watervore of pypleidings aldus aangelê of gebou, van tyd tot tyd herstel, verander of verwyder: Met dien verstande dat die plaaslike bestuur wat beheer oor so 'n straat het, na skriftelike kennisgewing aan bedoelde raad self sodanige werksaamhede ten behoeve van daardie raad kan onderneem, indien die direkteur tevrede is dat die bedrae vir die nodige werk bereken te word, soos in die kennisgewing vermeld, redelik is, en dat daardie plaaslike bestuur die betrokke werk binne 'n redelike tydperk sal afhandel.

(3) 'n Waterraad moet minstens dertig dae voordat hy 'n deur hierdie artikel aan hom verleende bevoegdheid uitoefen, aan die betrokke plaaslike bestuur skriftelik van sy voorneme om dit te doen, kennis gee, behalwe in geval van nood, en in so 'n geval moet hy sodra moontlik nadat die noodtoestand ontstaan het, aldus kennis gee.

(4) Die bevoegdhede ingevolge hierdie artikel aan 'n waterraad verleen, word, behalwe in geval van nood, slegs onder toesig van die betrokke plaaslike bestuur uitgeoefen, en volgens 'n plan waarop die roete aangewys word en ooreenkomstig spesifikasies wat deur die plaaslike bestuur goedgekeur word, of, indien daar ten opsigte van bedoelde plan, roete of spesifikasies 'n geskil ontstaan, soos deur die Minister goedgekeur: Met dien verstande dat indien bedoelde plaaslike bestuur in gebreke bly om die hierby verleende bevoegdhede in verband met toesig uit te oefen, nadat soos voormeld kennis gegee is, die waterraad daardie bevoegdhede sonder sodanige toesig kan uitoefen.

(5) Wanneer 'n waterraad 'n deur hierdie artikel gemagtigde werk uitvoer, moet hy aan die verordenings of regulasies van die betrokke plaaslike bestuur voldoen en daardie werk met redelike spoed voltooi, en die straat wat geopen of opgebreek is, herstel en goedmaak en alle afval wat daaruit ontstaan het, verwyder, en toesien dat die werke te alle tye terwyl die straat geopen, opgebreek of versper is, omhein en bewaak en gedurende die nag toereikend verlig word.

(6) Indien 'n waterraad versuim om 'n plig ingevolge sub-artikel (5) aan hom opgelê, uit te voer, kan bedoelde plaaslike bestuur enige werk wat vertraag of nagelaat is op koste van daardie raad laat uitvoer.

(3) A water board shall also cause to be maintained a register of all its assets so that the sum payable to the renewals fund can at any time be ascertained.

(4) A water board may establish a reserve fund into which shall be paid such surplus moneys at the disposal of the board as it may from time to time determine, and any moneys in any such fund may be used for such purposes as the Minister may approve.

126. The provisions of sub-sections (1) and (2) of section Audit. ninety-six shall *mutatis mutandis* apply in relation to any water board.

127. (1) No local authority in the area of a water board which is being supplied with water by such board shall have the right to supply water to any consumer outside the area of its jurisdiction except with the consent of such water board and at the tariffs and subject to the conditions determined by that board. Restrictions imposed on local authorities and others in defined areas.

(2) No local authority and no person who supplies water to any other person within the said area shall, without the prior approval of the Minister, extend or increase the supply of water derived from any scheme under its or his control or enter into an arrangement for acquiring water otherwise than from the water board concerned.

(3) No consumer (other than a local authority within the area of its jurisdiction) shall, without the sanction of a water board, sell or supply any water purchased by him from such board to any person whom the board is for the time being empowered to supply, and if any consumer shall sell or supply water in contravention of this sub-section, the said water board may charge such consumer in addition to the charges made in accordance with this Chapter, at a rate not exceeding three times the standard rate in force from time to time in respect of water supplied to him during the period of such contravention.

128. (1) For the purpose of this section "street" includes any road, square or open or closed public place, the control or care of which is vested in any local authority. Breaking up of streets, etc., by a water board.

(2) Subject to the provisions of this section, a water board may break up any street for the purposes of any authorized scheme and lay or construct conduits or pipe-lines along, under or over any street, and from time to time repair, alter or remove any conduits, aqueducts or pipe-lines so laid or constructed: Provided that the local authority having control of any such street may after notice in writing to such board, itself undertake such operations on behalf of that board, if the director is satisfied that the charges to be made for the work involved, as specified in such notice, are reasonable, and that such local authority will complete the work in question within a reasonable period.

(3) A water board shall not less than thirty days before it exercises any power conferred by this section, give to the local authority concerned notice in writing of its intention to do so, except in cases of emergency, and in such cases it shall give such notice as soon as possible after the emergency has arisen.

(4) The powers conferred upon a water board under this section shall, except in cases of emergency, be exercised only under the superintendence of the local authority concerned and according to such plan showing the route and such specifications as may be approved by that local authority or, if any dispute arises respecting such plan, route or specifications, as may be approved by the Minister: Provided that if the said local authority fails to exercise the powers of superintendence herein conferred after notice as aforesaid has been given, the water board may exercise those powers without such superintendence.

(5) Whenever a water board carries out any work authorized by this section, it shall comply with the by-laws or regulations of the local authority concerned and shall complete that work with reasonable despatch and reinstate and make good the street opened or broken up and remove the rubbish occasioned thereby, and shall, while the street is opened or broken up or obstructed, cause the works to be at all times fenced and guarded and, during the night, adequately lighted.

(6) If a water board fails to carry out any duty imposed upon it by sub-section (5), the said local authority may cause any work delayed or omitted to be executed at the expense of the said board.

(7) 'n Waterraad moet aan so 'n plaaslike bestuur die koste betaal wat redelikerwys en noodwendig by die uitoefening van enige toesig ingevolge hierdie artikel deur hom aangegaan is.

(8) Die bepalings van hierdie artikel word nie uitgelê om 'n waterraad te onthef van aanspreeklikheid ten opsigte van verlies of skade veroorsaak deur sy versuim om aan die bepalings van hierdie artikel te voldoen nie.

Betreding van
waterraad se
perseel vir
inspeksie, ens.

129. (1) Die direkteur of 'n deur hom skriftelik daartoe gemagtigde amptenaar van die departement kan—

(a) op alle redelike tye enige perseel van 'n waterraad betree en waterwerke, uitrusting, masjinerie, boeke en rekenings en ander dokumente aldaar gevind, inspekteer;

(b) 'n waterraad of iemand in sy diens aansê om hom te voorsien van periodieke of ander opgawes in die vorm wat die Minister van tyd tot tyd voorskryf, en van besonderhede ten opsigte van enige deur daardie raad bestuurde skema wat die direkteur of bedoelde amptenaar van tyd tot tyd mag eis.

(2) Iemand wat weier om so 'n inspeksie toe te laat of versuim om aan so 'n eis te voldoen of wat die direkteur of bedoelde amptenaar by so 'n inspeksie opsetlik hinder of belemmer, is aan 'n misdryf skuldig.

(3) Indien iemand inligting deur hom by sodanige inspeksie verkry, openbaar, behalwe vir die vervulling van sy pligte ingevolge hierdie Hoofstuk of die regulasies daaronder uitgevaardig of op bevel van of in antwoord op vrae aan hom gestel as 'n getuie in 'n geregshof, is hy aan 'n misdryf skuldig.

Waterraad se
bevoegdhede van
betreding en
inspeksie.

130. Enigiemand wat skriftelik deur 'n waterraad daartoe gemagtig is, kan op alle redelike tye 'n perseel betree waaraan deur daardie raad water voorsien word of is, ten einde die pypleidings, meters, uitrusting, werke en apparaat wat aan daardie raad behoort, te inspekteer of om die hoeveelheid verbruikte water vas te stel of, waar 'n voorraad nie meer nodig is nie, pypleidings, meters, uitrusting, werke en apparaat behorende aan bedoelde raad te verwyder, en alle skade deur sodanige betreding, inspeksie of verwydering veroorsaak, moet deur die raad herstel en reggemaak word.

Pypleidings,
meters, uitrusting,
ens., nie blywend te
wees nie.

131. (1) Pypleidings, meters, uitrusting, werke of apparaat behorende aan 'n waterraad en wettiglik in of op 'n perseel wat nie in sy wettige besit is nie, geplaas of aangebring, bly die eiendom van daardie raad en kan deur hom verwyder word, hetsy dit aan 'n deel van die perseel geheg is al dan nie, en is nie aan die verhuurder se hipoteek vir huur van daardie perseel onderworpe nie en ook nie onder enige regsproses of enige geding in verband met insolvensie of likwidasië teen die eienaar of okkupeerder van daardie perseel vir beslaglegging vatbaar nie.

(2) By die toepassing van artikel *honderd-en-dertig* word pypleidings, meters, uitrusting en apparaat deur 'n waterraad verhuur of gehuur, of op voorwaarde dat betaling in paaieemente geskied deur hom van die hand gesit, geag aan hom te behoort totdat daardie paaieemente betaal is.

Onwettige neem
van water.

132. (1) Iemand wat sonder 'n wettige reg (waarvan die bewyslas op hom rus) water uit die skema van 'n waterraad uitneem of laat uitneem of uitkeer of laat uitkeer, of sodanige water wat wederregtelik of onwettiglik uitgeneem of uitgekeer is, verbruik of gebruik, met wete dat dit wederregtelik of onwettiglik uitgeneem of uitgekeer is, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met die strawwe in sub-artikel (1) van artikel *honderd-en-sewentig* vir 'n in daardie sub-artikel vermelde misdryf voorgeskryf.

(2) Iemand wat sonder 'n wettige reg (waarvan die bewyslas op hom rus) werke, insluitende watergeleidings, watervore of pypleidings, wat aan 'n waterraad behoort en vir die verskaffing van water gebruik word, afsny of beskadig of hom daarmee bemoei, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met die strawwe in sub-artikel (2) van artikel *honderd-en-sewentig* vir 'n in daardie sub-artikel vermelde misdryf voorgeskryf.

Toepassing van
artikel 95 op
waterrade.

133. Die bepalings van artikel *vyf-en-negentig* is *mutatis mutandis* met betrekking tot waterrade van toepassing.

Jaar- en ander
verslae.

134. Elke waterraad moet binne een maand na die ontvangs deur hom van 'n verslag oor enige oudit van sy rekenings aan die Minister 'n verslag oor sy werksaamhede en bedrywighede gedurende die boekjaar waarop die oudit betrekking het, stuur, insluitende, onder meer—

(7) A water board shall pay to the said local authority the costs reasonably and necessarily incurred by it in exercising any superintendence under this section.

(8) Nothing in this section contained shall be construed as relieving a water board from any liability in respect of any loss or damage caused by its failure to comply with the provisions of this section.

129. (1) The director or any officer of the department authorized thereto in writing by him may—

Entry of water board's premises for inspection, etc.

(a) at all reasonable times enter upon any premises of any water board and inspect any water works, plant, machinery, books and accounts and other documents found thereat;

(b) call upon any water board or any person in its employ to furnish him with periodical or other returns in such form as may from time to time be prescribed by the Minister, and such particulars in respect of any scheme administered by that board as the director or such officer may from time to time demand.

(2) Any person who refuses to allow any such inspection or fails to comply with any such demand, or who wilfully obstructs or hinders the director or such officer in any such inspection shall be guilty of an offence.

(3) If any person divulges information obtained by him upon such inspection, except for the purpose of carrying out his duties under this Chapter or the regulations made thereunder or upon the order of or in answer to questions put to him as a witness in a court of law, he shall be guilty of an offence.

130. Any person authorized thereto in writing by a water board may at all reasonable times enter any premises to which water is or has been supplied by such board in order to inspect the pipelines, meters, fittings, works and apparatus belonging to such board, or for the purpose of ascertaining the quantity of water consumed or, where a supply is no longer required, removing any pipe-lines, meters, fittings, works and apparatus belonging to the said board, and all damage caused by such entry, inspection or removal shall be repaired and made good by the board.

Water board's powers of entry and inspection.

131. (1) Any pipe-lines, meters, fittings, works or apparatus belonging to any water board lawfully placed in or upon any premises not in its lawful possession shall, whether or not fixed to any part of such premises, remain the property of and be removable by such board, and shall not be subject to the landlord's hypothec for rent of such premises nor liable to be taken in execution under any process of law or any proceedings in insolvency or liquidation against the owner or occupier of such premises.

Pipe-lines, meters, fittings, etc., not to be fixtures.

(2) For the purposes of section *one hundred and thirty*, pipe-lines, meters, fittings and apparatus let or rented by a water board or disposed of by it on terms of payment by instalments shall, until such instalments have been paid, be deemed to belong to it.

132. (1) Any person who without legal right (the proof of which shall be upon him) abstracts or causes to be abstracted or diverts or causes to be diverted any water from the scheme of any water board, or consumes or uses any such water which has been wrongfully or unlawfully abstracted or diverted knowing the same to have been wrongfully or unlawfully abstracted or diverted shall be guilty of an offence and liable on conviction to the penalties prescribed by sub-section (1) of section *one hundred and seventy* in respect of an offence mentioned in that sub-section.

Unlawful abstraction of water.

(2) Any person who without legal right (the proof of which shall be upon him) cuts or damages or interferes with any works, including conduits, aqueducts or pipe-lines, belonging to any water board and used for the purpose of supplying water, shall be guilty of an offence and liable on conviction to the penalties prescribed by sub-section (2) of section *one hundred and seventy* in respect of an offence mentioned in that sub-section.

133. The provisions of section *ninety-five* shall apply *mutatis mutandis* in relation to water boards.

Application of section 95 to water boards.

134. Every water board shall within one month after the receipt by it of a report in respect of any audit of its accounts submit to the Minister a report upon its operations and activities during the financial year to which the audit relates including *inter alia*—

Annual and other reports.

- (a) 'n balanstaat en 'n volledige opgawe van inkomste en uitgawes wat behoorlik geouditeer is;
- (b) die verslag van die ouditeurs;
- (c) 'n opgawe van die inkomste deur die raad verkry en die uitgawes deur hom aangegaan ten opsigte van elke skema, en van die water deur hom aan elke plaaslike bestuur en elke besondere klas verbruikers voorsien;
- (d) besonderhede omtrent die omvang en waarde van alle soorte eiendom wat aan die raad behoort;
- (e) 'n staat aantoonende die bedrag van sekuriteite vir nog uitstaande lenings, en die rente daarop, hetsy afbetaal al dan nie;
- (f) 'n staat aantoonende die toestand van elkeen van die fondse wat ingevolge hierdie Hoofstuk ingestel en in stand gehou moet word;
- (g) besonderhede aangaande die koste van bestuur en administrasie en alle ander uitgawes;
- (h) besonderhede in verband met die oprigting en bou, herstel, verbetering of verandering van waterwerke, uitrusting, masjinerie of geboue, en die koste daarvan;
- (i) besonderhede omtrent die prys of huurgeld van grond of regte of belange in of op grond of enige ander eiendom verkry of gehuur.

Watteraad moet voldoen aan bepalings van Wet betreffende gebruik van water.

135. Die bepalings van hierdie Hoofstuk word nie so uitgelê dat dit 'n watteraad magtig om water te neem of te gebruik waarop hy nie ooreenkomstig die bepalings van hierdie Wet geregtig is of ten opsigte waarvan hy nie 'n wettige reg verkry het nie.

Verordeninge van 'n watteraad.

136. (1) 'n Watteraad kan verordeninge uitvaardig wat nie met hierdie Wet onbestaanbaar is nie, betreffende—

- (a) die verrigtings en werksaamhede van die raad;
- (b) die pligte van beamptes, dienaars en ander persone in sy diens, insluitende die oordrag van bevoegdhede rakende aanstelling en ontslag aan 'n besondere beampte: Met dien verstande dat, behalwe met toestemming van die Minister, die administratiewe hoofbeampte van 'n watteraad nie sonder sy toestemming van sy amp onthef en sy salaris of besoldiging nie verminder word nie: Met dien verstande voorts dat 'n watteraad so 'n beampte weens growwe onbekwaamheid, pligsversuim of wangedrag van die pligte of besoldiging van sy amp kan skors in afwagting van die Minister se goedkeuring van sy ontslag, in welke geval bedoelde beampte by verlening van die goedkeuring geag word vanaf die datum van sodanige skorsing van sy amp onthef te gewees het;
- (c) die salarisskale, lone en ander besoldiging en die regte en voorregte van persone in sy diens en die bydraes wat sodanige persone moet betaal aan enige pensioenfondse wat deur die raad ingestel mag word;
- (d) die voorwaardes wat in verband met die verskaffing van water aan enige persoon deur die raad van toepassing sal wees;
- (e) die eenhede of standaarde vir die meet van water wat verskaf word, die waarmerking van meters, die gelde wat daarvoor gevorder moet word en die beslegting van geskille betreffende die meet van water wat verskaf is en die toegelate foutspelings;
- (f) die bou, verandering, bestuur, beskerming en inspeksie van werke, uitrusting, masjinerie, apparaat, toestelle en toebehore nodig in verband met die lei, verdeling, verbinding, aanlê of gebruik van water deur die raad verskaf;
- (g) die verlening van kortings vir stiptelike betaling deur verbruikers van water, of die heffing van addisionele vorderings of die betaling van rente ten opsigte van vertraagde betalings;
- (h) die betaling en invordering van gelde verskuldig vir water verskaf en huurgelde van meters en ander apparaat;
- (i) die voorkoming van die verspilling of onwettige gebruik van water deur die raad verskaf;
- (j) die verhaal en afdwing van betaling van gelde verskuldig vir water deur die raad verskaf;
- (k) die gelde ingevolge hierdie Hoofstuk deur hom gevorder te word.

(2) So 'n verordening is nie van krag en regsgeldig nie totdat dit deur die Minister goedgekeur is, en behalwe in die geval van

- (a) a balance sheet and a complete statement of revenue and expenditure, duly audited;
- (b) the report of the auditors;
- (c) a statement of the revenue derived by the board and the expenditure incurred by it in respect of each scheme, and of the water supplied by it to each local authority and each particular class of consumers;
- (d) particulars as to the extent and value of all classes of property owned by the board;
- (e) a statement shewing the amount of securities for loans still outstanding, and the interest thereon, whether paid or unpaid;
- (f) a statement shewing the position of each of the funds required by this Chapter to be established and maintained;
- (g) particulars of the expenses of management and administration and all other expenses;
- (h) details in connection with the erection and construction, repair, improvement or alteration of water works, plant, machinery or buildings and the cost thereof;
- (i) particulars as to the price or rent of any land or rights or interests in or over land or any other property acquired or hired.

135. Nothing in this Chapter contained shall be construed as authorizing a water board to take or use any water to which it is not, in accordance with the provisions of this Act, entitled or in respect of which it has not acquired a lawful right.

Water board to comply with provisions of Act relating to use of water.

136. (1) A water board may make by-laws not inconsistent with this Act, relating to—

By-laws of a water board.

- (a) the proceedings and business of the board;
- (b) the duties of officers, servants and other persons in its employ, including the delegation of powers of appointment and dismissal to any particular officer: Provided that the chief administrative officer of a water board shall not, without his own consent, be removed from his office, nor shall his salary or emoluments be reduced, without the approval of the Minister: Provided further that a water board may suspend any such officer from the duties or emoluments of his office for gross incapacity, neglect or misconduct pending the sanction of the Minister to his dismissal, in which event such officer shall, upon sanction being granted, be deemed to have been removed from office as from the date of such suspension;
- (c) the scales of salaries, wages or other remuneration and the rights and privileges of persons in its employ, and the contributions to be paid by such persons towards any pension fund which may be established by the board;
- (d) the conditions which shall apply in connection with the supply of water to any person by the board;
- (e) the units or standards for the measurement of water supplied, the verification of meters, the fees to be charged therefor and the settlement of disputes as to measurements of water supplied and limits of error;
- (f) the construction, alteration, operation, protection and inspection of works, plant, machinery, apparatus, appliances and equipment required in connection with the conveyance, distribution, connection, installation or use of water supplied by the board;
- (g) the granting of discounts for prompt payment by consumers of water or the making of additional charges or the payment of interest in respect of delayed payments;
- (h) the payment and collection of moneys due for water supplied and rentals of meters and other apparatus;
- (i) the prevention of the waste or unlawful use of water supplied by the board;
- (j) the recovery and enforcement of payment of moneys due for water supplied by the board;
- (k) the fees to be charged by it under this Chapter.

(2) No such by-law shall be of force and effect until approved by the Minister and, except in the case of by-laws made under

verordenings kragtens paragraaf (a), (b) of (c) van sub-artikel (1) uitgevaardig, deur die betrokke waterraad in die *Staatskoerant* en in 'n nuusblad in omloop in sy gebied, gepubliseer is: Met dien verstande dat so 'n verordening nie deur die Minister goedgekeur word nie voor die verstryking van een maand nadat die waterraad 'n kennisgewing in 'n nuusblad in omloop in sy omskrewe gebied gepubliseer en buite die hoofdeur van sy kantoor aangeplak het, waarin sy voorneme om aansoek te doen om goedkeuring van bedoelde verordening te kenne gegee word.

Voortsetting van
streekwatervoorsieningskorporasies ingestel ingevolge Ordonnansie 21 van 1945 (Natal).

137. (1) Vanaf die datum van inwerkingtreding van hierdie Wet word geen streekwatervoorsieningskorporasie kragtens die bepalings van die Ordonnansie op Watervoorsiening, 1945 (Ordonnansie No. 21 van 1945), van Natal, ingestel nie, sonder goedkeuring vooraf van die Minister.

(2) Die Minister kan te eniger tyd indien hy dit in die openbare belang raadsaam ag by die Goewerneur-generaal aanbeveel dat die bepalings van hierdie Hoofstuk op 'n kragtens die bepalings van bedoelde Ordonnansie ingestelde streekwatervoorsieningskorporasie toegepas word.

(3) (a) By ontvangs van so 'n aanbeveling kan die Goewerneur-generaal by proklamasie in die *Staatskoerant* die bepalings van hierdie Hoofstuk op bedoelde korporasie toepas en daarop word daardie korporasie 'n waterraad onder die naam in genoemde proklamasie daaraan toegewys en is hy bekleed met al die bevoegdhede, pligte en werksaamhede deur hierdie Wet aan 'n waterraad toegeken en opgedra.

(b) Alle bates, regte, laste en verpligtings wat op die datum van inwerkingtreding van sodanige proklamasie by so 'n korporasie berus bly aldus by hom berus in sy hoedanigheid van so 'n waterraad, en enige belastinge of vorderings gehef of beslissings gegee deur so 'n korporasie voor bedoelde datum bly ten volle van krag totdat dit ingevolge hierdie Wet gewysig of herroep word, asof dit deur bedoelde korporasie in sy voormelde hoedanigheid gehef of gegee was.

(c) Enige verordening of regulasie deur so 'n korporasie voor die betrokke datum uitgevaardig, word, vir sover dit binne die by artikel *honderd ses-en-dertig* aan 'n waterraad verleende bevoegdhede val, geag kragtens genoemde artikel deur bedoelde korporasie in sy voormelde hoedanigheid uitgevaardig te gewees het en bly ten volle van krag totdat dit ingevolge hierdie Wet gewysig of herroep word.

(d) Die lede van so 'n korporasie wat op die betrokke datum diens doen, bly lede van daardie korporasie in sy voormelde hoedanigheid, en bekleed as sodanig hul amp vir so 'n tydperk van hoogstens vier jaar vanaf bedoelde datum as wat die Minister bepaal, en die bepalings van artikel *honderd-en-nege* is daarna van toepassing met betrekking tot die aanstelling van lede daarvan met inbegrip van enige lid aangestel om 'n vakature te vul wat weens die dood, bedanking of onbevoegdheid van 'n lid ontstaan, en in verband met die aanstelling van 'n persoon om te dien in die plek van 'n lid aan wie verlof tot afwesigheid van vergaderings verleen is.

(e) Die bepalings van hierdie Hoofstuk word nie geag so 'n korporasie te belet om in sy voormelde hoedanigheid enige werknemer wat op datum van inwerkingtreding van sodanige proklamasie op sy diensstaat is, in diens te hou nie op die diensvoorwaardes wat op bedoelde datum op hom van toepassing is, of om in bedoelde hoedanigheid ten opsigte van so 'n werknemer aan te hou om tot 'n pensioenfonds by te dra, en vir daardie doel word so 'n pensioenfonds geag kragtens hierdie Hoofstuk ingestel te gewees het.

Regulasies betreffende waterrade.

138. Die Minister kan regulasies uitvaardig betreffende—

(a) die aanslag, heffing en invordering van waterbelastinge ingevolge artikel *honderd-en-twintig* gehef;

(b) die vrystelling van die betaling van sodanige waterbelastinge op grond binne die regsgebied van 'n plaaslike bestuur of in 'n dorp ten opsigte waarvan hy dit onbillik ag dat 'n waterbelasting gehef word, of die wysiging van die waterbelasting na gelang van die doel waarvoor enige grond gebruik word of bedoel mag wees om gebruik te word;

paragraph (a), (b) or (c) of sub-section (1), published by the water board concerned in the *Gazette* and in a newspaper circulating in its area: Provided that no such by-law shall be approved by the Minister until the expiry of one month after a notice has been published by the water board in a newspaper circulating in its defined area and posted outside the principal door of its office, stating its intention to apply for the approval of such by-law.

137. (1) As from the date of commencement of this Act no regional water supply corporation shall be constituted under the provisions of the Water Supply Ordinance, 1945 (Ordinance No. 21 of 1945), of Natal, without the prior approval of the Minister.

Continuation of Regional Water Supply Corporations established under Ordinance 21 of 1945 (Natal).

(2) The Minister may at any time if he deems it expedient in the public interest recommend to the Governor-General that the provisions of this Chapter be applied to any regional water supply corporation constituted under the provisions of the said Ordinance.

- (3) (a) Upon receipt of such a recommendation the Governor-General may by proclamation in the *Gazette* apply the provisions of this Chapter to such corporation and such corporation shall thereupon become a water board under a name assigned to it in the said proclamation and shall be vested with all the powers, duties and functions conferred upon and assigned to a water board by this Chapter.
- (b) All assets, rights, liabilities and obligations vested in any such corporation at the date on which such proclamation comes into operation shall remain so vested in that corporation in its capacity as such water board, and any rates or charges imposed or decisions given by such corporation prior to such date shall remain of full force and effect until amended or withdrawn under this Act as if they had been imposed or given by that corporation in its capacity aforesaid.
- (c) Any by-law or regulation made by such corporation prior to the date in question shall, in so far as it is within the powers conferred upon a water board by section *one hundred and thirty-six*, be deemed to have been made by that corporation in its capacity aforesaid under the said section, and shall remain of full force and effect until amended or withdrawn under this Act.
- (d) The members of such a corporation holding office at the date in question shall remain members of that corporation in its capacity as aforesaid, and shall as such continue to hold office for such period not exceeding four years as from the said date as the Minister may determine, and the provisions of section *one hundred and nine* shall thereafter apply in connection with the appointment of members thereof, including any member appointed to fill any vacancy which may occur as a result of the death, resignation or disqualification of a member, and in connection with the appointment of any person to act in the stead of a member who has been granted leave of absence from meetings.
- (e) Nothing in this Chapter contained shall be deemed to preclude any such corporation from continuing to employ in its capacity aforesaid under the conditions of employment applicable to him at the date on which such proclamation comes into operation, any employee on its establishment at that date, or from continuing to contribute in such capacity in respect of such employee towards any pension fund, and for that purpose any such pension fund shall be deemed to have been established under this Chapter.

138. The Minister may make regulations relating to—

Regulations as to water boards.

- (a) the assessment, levying and collection of water rates assessed in terms of section *one hundred and twenty*;
- (b) the exemption from payment of such water rates upon any land within the area of jurisdiction of any local authority or in any township in respect of which he deems it inequitable that a water rate should be imposed, or the variation of the water rate according to the purpose for which any land may or may be intended to be used;

- (c) die invordering deur 'n plaaslike bestuur en die betaling aan 'n waterraad van die in paragraaf (b) van sub-artikel (3) van artikel *honderd-en-twintig* bedoelde belasting, en die vorderings wat so 'n plaaslike bestuur vir sodanige invordering kan hef;
- (d) die benoeming en verkiesing van lede van 'n waterraad, die aantal persone wat as lede van so 'n raad verkies moet word en die aantal lede wat op 'n vergadering daarvan 'n kworum uitmaak, en die toelaes wat aan die voorsitter of 'n ander lid betaal kan word;
- (e) die beskerming van die publiek teen skade weens die uitoefening van die regte ingevolge hierdie Hoofstuk verleen;
- (f) die inspeksie en ondersoek van die beheer en bestuur van skemas;
- (g) die standaard van suiwerheid van water wat verskaf moet word;
- (h) die metode van waterverskaffing;
- (i) die voorkoming van verspilling of besoedeling van watervoorrade op enige wyse hoegenaamd, ongeag die gebruik waarvoor sodanige watervoorrade aangewend word of kan word;
- (j) oor die algemeen enige saak wat die Minister nodig of dienstig ag om vir die meer doeltreffende administrasie en tenuitvoerlegging van die bepalings van hierdie Hoofstuk voor te skryf.

HOOFSTUK VIII.

SERWITUTE.

Omskrywing van
serwiture.

139. In hierdie hoofstuk beteken—

- (i) „serwituut van dreinerings” die reg om soveel van die grond wat aan 'n ander behoort, te okkupeer as wat nodig mag wees vir of in verband staan met dreinerings van grond of beskikking oor water, hetsy in die naaste openbare stroom of natuurlike bedding of andersins, na gelang onder die omstandighede doenlik of wenslik mag wees; (iii)
- (ii) „serwituut van opdamming” die reg om deur middel van 'n dam, studam, beskermmuur of wal, pomp, turbine of kraggebou en sy toebehore, die bedding of oevers van 'n openbare stroom of aanliggende grond wat aan 'n ander behoort, te okkupeer; (i)
- (iii) „serwituut van opgaring” die reg om grond wat aan 'n ander behoort, te okkupeer deur dit met water deur middel van 'n dam, studam of ander werk te oorstroom, hetsy so 'n dam, studam of ander werk op daardie grond gebou is al dan nie; (iv)
- (iv) „serwituut van waterleiding” die reg om soveel van die grond wat aan 'n ander behoort, te okkupeer as wat nodig mag wees vir of in verband staan met die lei van water, en ook 'n reg om werke, met inbegrip van bykomstige uitkeerwerke, wat nodig is vir die lei van water oor, onder of langs 'n ander werk op sodanige grond te gebruik of in die gebruik daarvan te deel of dit te bou of om 'n bestaande werk te vergroot en uit te brei. (ii)

Plek langs openbare stroom waar water geneem kan word.

140. (1) (a) Iemand wat op die gebruik van water uit 'n openbare stroom geregtig is, kan, behoudens die bepalings van hierdie Wet, die reg verkry om daardie water by so 'n plek langs die loop van bedoelde stroom uit te keer as wat redelikerwys nodig mag wees ten einde hom in staat te stel om sy reg van gebruik van daardie water uit te oefen.

(b) 'n Plaaslike bestuur kan met toestemming van die Minister enige waterwerke op of oor grond bou en in stand hou vir dreineringsdoeleindes of ten einde water na die regsgebied van bedoelde plaaslike bestuur vir stedelike gebruik in daardie gebied te lei.

(2) So 'n plaaslike bestuur het in verband met die bou of instandhouding van sodanige waterwerke dieselfde bevoegdhede as wat deur artikel *vier-en-negentig* aan 'n besproeiingsraad verleen word, en vir daardie doel is die bepalings van bedoelde artikel *mutatis mutandis* van toepassing.

Serwituutregte en regte van eienaars van heersende en dienende hoewes.

141. (1) Iemand wat 'n reg het op openbare water of ondergrondse water (soos in artikel *sewe-en-twintig* omskryf) of op die gebruik daarvan of 'n reg het om oor die gebruik van beskikking oor openbare of ondergrondse water toesig te hou

- (c) the collection by a local authority, and the payment to a water board, of rates referred to in paragraph (b) of sub-section (3) of section *one hundred and twenty*, and the charges which such local authority may impose for such collections;
- (d) the nomination and election of members of any water board, the number of persons to be elected as members of such board and the number of members which shall constitute a quorum at any meeting thereof and the allowances which may be paid to the chairman or any other member;
- (e) the protection of the public from damage owing to the exercise of rights granted under this Chapter;
- (f) inspections and enquiries into the conduct and operation of schemes;
- (g) the standard of purity of water to be supplied;
- (h) the mode of supplying water;
- (i) the prevention of wastage or pollution in any manner whatsoever of any water supplies irrespective of the uses to which such water supplies are or may be put;
- (j) generally any matter which the Minister considers it necessary or expedient to prescribe for the more efficient administration and carrying into effect of the provisions of this Chapter.

CHAPTER VIII.

SERVITUDES.

139. In this Chapter—

Definition of
servitudes.

- (i) "servitude of abutment" means the right to occupy by means of a dam, weir, protecting wall or embankment, pump, turbine or power house and its appurtenances, the bed or banks of a public stream or land adjacent thereto belonging to another; (ii)
- (ii) "servitude of aqueduct" means the right to occupy so much of the land belonging to another as may be necessary for or incidental to the passage of water, and includes a right to use, share in the use of, or construct on such land works, including ancillary diversion works, necessary for the passage of water over, under or alongside another work, or to enlarge and extend an existing work; (iv)
- (iii) "servitude of drainage" means the right to occupy so much of the land belonging to another as may be necessary for or incidental to the drainage of land or disposal of water whether into the nearest public stream or natural channel or otherwise, as may be practicable or desirable in the circumstances; (i)
- (iv) "servitude of storage" means the right to occupy land belonging to another by submerging it with water by means of a dam, weir or other work, whether or not such dam, weir or other work has been constructed on such land. (iii)

140. (1) (a) Any person entitled to the use of the water of a public stream may, subject to the provisions of this Act, acquire the right to divert such water at such point on the course of that stream as may be reasonably necessary to enable him to exercise his right to use the said water. Point on a public stream at which water may be taken.

- (b) A local authority shall, with the consent of the Minister, be entitled to construct and maintain any water works on or over any land for drainage purposes or for the purpose of conveying water to the area of jurisdiction of the said local authority for urban use in that area.

(2) Any such local authority shall in connection with the construction or maintenance of any such water works have the same powers as are by section *ninety-four* vested in an irrigation board, and for that purpose the provisions of that section shall *mutatis mutandis* apply.

141. (1) Any person who, having a right to or to the use of public water or subterranean water (as defined in section *twenty-seven*), or being entitled to supervise or control the use or disposal of public or subterranean water, desires to employ it Rights of servitudes and of owners of dominant and servient tenements.

of dit te beheer en dit vir of in verband met 'n doel waarvoor sodanige water volgens die bepalings van hierdie Wet gebruik kan word, wil aanwend of die aanwending daarvan wil uitbrei, of oor sodanige water wil beskik, hetsy deur dreinerings of op enige ander wyse, is geregtig om tydelik of ewigdurend sodanige serwitute van opdamming, waterleiding, dreinerings of opgaring kragtens hierdie Wet te eis as wat vir daardie doel of vir die beskikking oor of die dreinerings van sodanige water nodig is of daarmee in verband staan: Met dien verstande dat—

- (a) geen sodanige persoon, uitgesonderd 'n eienaar van grond of die eienaar van 'n myn aan wie ingevolge paragraaf (a) of (b) van sub-artikel (5) van artikel dertig 'n permit uitgereik is, op 'n serwituut van dreinerings oor grond geleë binne die regsgebied van 'n plaaslike bestuur (uitgesonderd 'n afdelingsraad) in paragraaf (a) van die woordbepaling van „plaaslike bestuur” in artikel een bedoel, geregtig is nie, behalwe met toestemming van sodanige plaaslike bestuur;
- (b) 'n tydelike serwituut hoogstens drie jaar lank van krag bly;
- (c) geen geding vir die verkryging van enige serwituut ingestel kan word nie solank daar 'n geskil bestaan betreffende die reg op die water ten opsigte waarvan die serwituut geëis word en 'n geding ter beslegting van die geskil in 'n bevoegde hof aanhangig is, maar indien 'n geding sowel vir die verkryging van 'n serwituut as vir die beslegting van genoemde geskil deur dieselfde hof besleg kan word of werklik daarin aanhangig is, belet die bepalings hierin vervat nie dat beide sake op een en dieselfde tyd beslis word nie;
- (d) so 'n serwituut aan die persoon wat dit verkry geen reg of belang in die grond waarop, waaroor of waardeur die serwituut verkry word behalwe die regte verbonde aan bedoelde serwituut, verleen nie.

(2) Wanneer 'n serwituut van opdamming, waterleiding, dreinerings of opgaring deur ooreenkoms of by bevel van 'n bevoegde hof verkry is, of andersins wettiglik onder hierdie Hoofstuk of 'n vorige wet verkry is, en die eienaar van die heersende hoewe om enige rede verlang om die waterwerke ten opsigte waarvan daardie serwituut verkry is, te verander of uit te brei, kan daardie eienaar, ondanks enige bedinge of voorwaardes wat in verband met die verkryging van bedoelde serwituut opgelê mag gewees het, ingevolge hierdie Wet die nuwe of addisionele serwitute eis wat vir daardie doel nodig mag wees.

(3) Enige serwituut ingevolge hierdie Hoofstuk verkry, sluit die reg in van toegang tot die gebied ten opsigte waarvan die serwituut verkry is, ten einde die waterwerk ten opsigte waarvan genoemde serwituut verkry is, te bou, te vergroot, te vernuwe, te vervang, te omhein, te inspekteer, in stand te hou, te herstel of skoon te maak, of vir enige ander doel wat vir die doeltreffende genot van die serwituut nodig is.

(4) Die eienaar van grond wat aan 'n serwituut van waterleiding of dreinerings onderhewig is, kan water waarop hy geregtig is of waaroor hy wil beskik, in die waterwerk ten opsigte waarvan daardie serwituut verkry is, aflaai, teen betaling van so 'n persentasie van die koste van die bou, vergroting en instandhouding van daardie werk, en op die ander voorwaardes wat by ooreenkoms of by ontstentenis van ooreenkoms deur 'n waterhof bepaal mag word: Met dien verstande dat so 'n eienaar nie geregtig is om water in bedoelde waterwerk af te laat op so 'n wyse dat die persoon wat genoemde serwituut verkry het, belet of verhinder word om sy regte onder daardie serwituut uit te oefen nie.

(5) Die eienaar van grond waaroor 'n serwituut van dreinerings bestaan, is geregtig om die water wat bevat is of vloei in 'n waterwerk wat op daardie grond gebou is of in enige afvoersloot of ander kanaal, behalwe 'n openbare stroom, wat gebruik word om oor bedoelde water te beskik, op daardie grond te gebruik, en so 'n eienaar kan eis dat enige waterwerk wat by die uitoefening van bedoelde serwituut van dreinerings gebou word op so 'n wyse gebou word dat die water wat daarin oor sy grond vloei vir sy gebruik beskikbaar gestel word: Met dien verstande dat so 'n waterwerk nie op so 'n wyse gebou word dat die watervlak tot nadeel van 'n hoër geleë eienaar styg nie en dat enige addisionele uitgawes aangegaan ten einde bedoelde water vir gebruik deur daardie eienaar beskikbaar te stel, deur daardie eienaar gedra moet word.

- (6) (a) Wanneer 'n persoon 'n ewigdurende serwituut van opgaring of 'n ewigdurende serwituut van opdamming verlang, kan die eienaar van die grond waaroor daardie

or to increase its employment for or in connection with any purpose for which such water may be used in accordance with the provisions of this Act, or to dispose of such water, whether by drainage or in any other manner shall be entitled to claim under this Act, temporarily or in perpetuity, such servitudes of abutment, aqueduct, drainage or storage as may be necessary for or incidental to the said purpose or for the disposal or drainage of such water: Provided that—

- (a) no such person, other than an owner of land or the owner of a mine to whom a permit has been issued in terms of paragraph (a) or (b) of sub-section (5) of section *thirty*, shall be entitled to a servitude of drainage over any land situated within the area of jurisdiction of a local authority (other than a divisional council) referred to in paragraph (a) of the definition of "local authority" in section *one*, except with the consent of such local authority;
- (b) a temporary servitude shall not endure for a longer period than three years;
- (c) no proceedings shall be taken for the acquisition of any servitude while a dispute exists as to the right to the water in respect of which the servitude is claimed and proceedings to determine the dispute are pending in a competent court, but if both such proceedings to acquire any servitude and to determine the said dispute are capable of decision by or are actually pending before the same court, nothing herein contained shall prevent both matters being decided at one and the same time;
- (d) no such servitude shall give the person acquiring it any right or interest in the land on, over or through which the servitude is acquired other than the rights connected with such servitude.

(2) Whenever a servitude of abutment, aqueduct, drainage or storage has been acquired by agreement or an order of a competent court, or has otherwise been lawfully acquired under this Chapter or under any prior law, and the owner of the dominant tenement desires for any reason to alter or extend the water works in respect of which such servitude was acquired, such owner shall, notwithstanding any terms or conditions which may have been imposed in connection with the acquisition of the said servitude, be entitled to claim under this Act such new or additional servitudes as may be necessary for the said purpose.

(3) Any servitude acquired under this Chapter shall include the right of access to the area in respect of which the servitude has been acquired for the purpose of constructing, enlarging, renewing, replacing, fencing, inspecting, maintaining, repairing or cleaning the water work in respect of which the said servitude has been acquired or for any other purpose necessary for the effective enjoyment of the servitude.

(4) The owner of any land which is subject to a servitude of aqueduct or drainage may pass any water to which he is entitled or of which he wishes to dispose along the water work in respect of which such servitude has been acquired, on payment of such proportion of the cost of constructing, enlarging and maintaining the said work, and on such other terms as may be agreed upon or failing agreement as may be determined by a water court: Provided that the said owner shall not be entitled to pass any water along such water work in such a manner as to prevent or hinder the person who has acquired the said servitude from exercising his rights under such servitude.

(5) The owner of land over which a servitude of drainage exists, shall be entitled to use on such land the water contained or flowing in any water work constructed on such land or in any drain or other channel other than a public stream, used for the purpose of disposing of the said water, and the said owner shall be entitled to claim that any water work constructed in the exercise of the said servitude of drainage shall be so constructed as to make available for his use any water flowing therein on his land: Provided that no such water work shall be so constructed as to raise the water level to the detriment of an upper owner and that any additional expense which may be incurred for the purpose of making the said water available for use by the said owner shall be borne by such owner.

- (6) (a) Whenever a person requires a perpetual servitude of storage or a perpetual servitude of abutment, the owner of the land over which such servitude is required

serwituut vereis word, voordat die serwituut verkry is 'n deel van die koste (soos by ooreenkoms tussen bedoelde eienaar en die persoon wat die serwituut verkry, of by ontstentenis van sodanige ooreenkoms deur 'n waterhof bepaal) van verkryging van daardie serwituut en van die boukoste van die waterwerk in verband waarmee die serwituut verlang word, betaal, of vir die betaling daarvan sekuriteit gee, en is hy vervolgens na voltooiing van bedoelde waterwerk, en vir sover met die bepalinge van Hoofstuk II bestaanbaar, geregtig om die voordeel van daardie werk te ontvang deur water daaruit te gebruik vir sover aldus bepaal: Met dien verstande dat so 'n voordeel nie deur die eienaar van die dienende hoewe geëis kan word nie indien die gebruik van bedoelde water deur hom die nuttigheid van bedoelde waterwerk ernstig sal verminder vir die persoon wat die serwituut wil verkry, of indien daardie serwituut deur 'n plaaslike bestuur verkry is ten einde die inwoners binne sy regsgebied van water te voorsien: Met dien verstande voorts dat enige geskil betreffende die nuttigheid van die betrokke waterwerk, of die verhouding van die water wat bedoelde eienaar van die dienende hoewe kan gebruik, of die totale koste van die waterwerk, of elke party se proporsionele aandeel van daardie koste, op versoek van een of ander van bedoelde eienaars deur 'n waterhof beslis moet word.

- (b) Indien die eienaar van 'n dienende hoewe nie ingevolge paragraaf (a) 'n reg verkry het nie, is hy nie geregtig om sonder toestemming van die eienaar van die heersende hoewe water uit die waterwerk ten opsigte waarvan bedoelde serwituut van opgaring of opdamming verkry is, te neem of te gebruik nie.

(7) Iemand wat 'n waterwerk wil bou om water te lei of te dreineer of daaroor te beskik, mag nie so 'n werk oor 'n pad, vir die aanleg, instandhouding, herstel of beheer waarvan 'n provinsiale administrasie, afdelingsraad of ander wettig ingestelde liggaam verantwoordelik is, bou nie, tensy hy skriftelike toestemming van daardie administrasie, raad of liggaam verkry het, en bedoelde persoon moet sodanige waterwerk bou ooreenkomstig die voorwaardes betreffende oprigting, instandhouding en herstel wat daardie administrasie, raad of liggaam by verlening van bedoelde toestemming mag stel.

(8) Behoudens die bepalinge van artikel honderd twee-en-veertig, ontnem 'n serwituut van opgaring nie, behalwe as dit 'n voorwaarde is van 'n ooreenkoms of 'n bevel van 'n bevoegde hof waarby die serwituut tot stand kom, die eienaar van die grond wat aan daardie serwituut onderhewig is, die gebruik van daardie gedeelte van die grond wat nie oorstroom is nie, solank sodanige gebruik nie vir die genot van bedoelde serwituut deur die persoon in wie se guns dit verleen of verkry is, nadelig is nie.

Serwituut omvat die reg om materiaal vir waterwerke te neem.

142. (1) Tensy dit in die serwituutakte of bevel van 'n waterhof, al na die geval, anders bepaal word, behels 'n serwituut wat kragtens hierdie Hoofstuk verkry is, ook 'n reg—

- (a) om van die grond onderhewig aan die serwituut materiaal of stof te neem wat redelikerwys nodig mag wees om 'n waterwerk ten opsigte waarvan daardie serwituut verkry is, of 'n deel daarvan te bou, te vergroot, te vernuwe, te vervang, in stand te hou of te herstel, hetsy daardie materiaal of stof op bedoelde grond of elders gebruik word;
- (b) om van die grond onderhewig aan die serwituut enige boom, bos, plantegroei of ander versperring wat vir die genot van die serwituut deur die persoon in wie se guns dit verleen of verkry is, nadelig mag wees, te kap, of te verwyder en te gebruik;
- (c) om op die grond onderhewig aan die serwituut, materiaal of stof te plaas wat in die loop van die bou, vergroting, vernuwing, vervanging, herstel, instandhouding of skoonmaak van die waterwerk ten opsigte waarvan die serwituut verkry is, uit daardie waterwerk uitgegraaf of verwyder is;
- (d) om soveel van die grond onderhewig aan die serwituut as wat redelikerwys nodig mag wees gedurende die tydperk wat die waterwerk ten opsigte waarvan die serwituut verkry is, gebou word, vir die oprigting van kampe of die aanleg van paaie of die oprigting op daardie grond van die wonings, uitrusting, reservoirs of ander geboue of strukture wat in verband met die

may, before the servitude has been acquired, pay or give security for the payment of a share of the cost of acquiring such servitude and of the cost of construction of the water work in connection with which the said servitude is required, as determined by agreement between such owner and the person acquiring the servitude or in the absence of such agreement, by a water court, and shall thereupon, after completion of the said water work, so far as is consistent with the provisions of Chapter II, be entitled to receive the benefit of such work by using water therefrom to the extent so determined: Provided that no such benefit may be claimed by the owner of the servient tenement if the use of the said water by him would seriously impair the usefulness of the said water work to the person desirous of acquiring the servitude or if the said servitude was acquired by a local authority for the purpose of supplying the inhabitants within the area of its jurisdiction with water: Provided further that any dispute as to the usefulness of the water work in question, or the proportion of the water which the said owner of the servient tenement may use, or the total cost of the water work, or each party's proportionate share of such cost, shall be determined by a water court at the instance of either of the said owners.

- (b) If the owner of a servient tenement has not acquired a right in terms of paragraph (a), he shall not be entitled to abstract or use any water from the water work in respect of which the said servitude of storage or abutment has been acquired, without the permission of the owner of the dominant tenement.

(7) A person who desires to construct a water work for the conveyance or the drainage or disposal of water shall not construct such work across a road for the construction, maintenance, repair or control of which a provincial administration, divisional council or other lawfully constituted body is responsible unless he has obtained the written permission of the said administration, council or body, and the said person shall construct such water works in accordance with such conditions as to construction, maintenance and repair as the said administration, council or body may impose in granting the said permission.

(8) Subject to the provisions of section *one hundred and forty-two*, a servitude of storage shall not, unless it be a condition of any agreement or order of a competent court establishing it, deprive the owner of the land subject to such servitude of the use of that part of the land which is not submerged, so long as such use is not detrimental to the enjoyment of the said servitude by the person in whose favour it has been granted or acquired.

142. (1) Any servitude acquired under this Chapter shall, unless otherwise provided in the deed of servitude or order of a water court, as the case may be, include a right—

Servitude includes the right to take materials for water works.

- (a) to take from the land subject to the servitude, any material or substance which may reasonably be required for the purpose of constructing, enlarging, renewing, replacing, maintaining or repairing any water work or any portion thereof in respect of which such servitude has been acquired, whether such material or substance is used on such land or elsewhere;
- (b) to cut down from the land subject to the servitude or remove and use any tree, bush, vegetation or other obstacle which may be detrimental to the enjoyment of the servitude by the person in whose favour it has been granted or acquired;
- (c) to deposit on the land subject to the servitude, any material or substance excavated or removed from the water work in respect of which the servitude has been acquired in the process of constructing, enlarging, renewing, replacing, repairing, maintaining or cleaning such work;
- (d) to occupy temporarily so much land subject to the servitude as may be reasonably required during the period of construction of the water work in respect of which the servitude has been acquired, for the construction of camps or roads or for the erection on such land of such houses, plant, reservoirs or other buildings or structures as may be necessary in con-

bou van die werk nodig mag wees, tydelik te okkupeer, en om soveel grond as wat redelikerwys vereis mag word vir die verblyf van die persone en vir werksplekke of opslagplekke nodig in verband met die beheer, werking en instandhouding van die betrokke waterwerke permanent te okkupeer.

- (2) (a) Die neem van enige materiaal of stof ingevolge paragraaf (a) van sub-artikel (1), of die verwydering en gebruik van enige boom, bos, plantegroei of ander versperring ingevolge paragraaf (b) van daardie sub-artikel, of die plasing van enige materiaal of stof ingevolge paragraaf (c) van daardie sub-artikel, of die tydelike of permanente okkupasie van grond ingevolge paragraaf (d) van daardie sub-artikel, is onderworpe aan 'n verpligting om vergoeding aan die eienaar van die betrokke grond te betaal, tensy bedoelde materiaal of stof geneem of bedoelde boom, bos, plantegroei of ander versperring afgekap of verwyder word of bedoelde materiaal of stof geplaas word binne die omskrewe gebied van die serwituut, of bedoelde okkupasie beperk is tot die omskrewe gebied van die serwituut.
- (b) Die vergoeding betaalbaar ingevolge paragraaf (a) word by ontstentenis van ooreenkoms deur 'n waterhof bepaal.

Reg op gebruik van waterwerk onderworpe aan verpligting om tot herstel by te dra.

143. Iemand wat deur ingevolge sub-artikel (4), (5) of (6) van artikel *honderd een-en-veertig* 'n eweredige deel van die boukoste van 'n waterwerk te betaal of by ooreenkoms of op ander wettige manier 'n reg verkry het om daardie werk te gebruik, is aanspreeklik vir die betaling van 'n dergelike deel van die instandhoudings- en herstellkoste van daardie werk, tensy so iemand by skriftelike kennisgewing aan die eienaar van die heersende hoewe van daardie reg afstand gedoen het.

Plig van persoon wat serwituut verkry om toegangsbrûe, ens., te bou.

144. Elke persoon wat ingevolge hierdie Hoofstuk waterwerke bou vir die deurgang, dreinerings of uitkeer van of beskikking oor water, wat 'n eienaar verhinder om vryelik oor of op sy grond te gaan, of die sirkulasie van water in die besproeiing of dreinerings van daardie grond verhinder, moet op eie koste die brûe en ander werke wat redelik veilige en gerieflike verkeer sal verseker en die duikweë, watervore en ander werke nodig om die vrye sirkulasie van bedoelde water te verseker, bou en in stand hou, tensy hy by ooreenkoms of andersins van so 'n verpligting onthef is.

Wyse van verkryging van serwitute onder hierdie Hoofstuk.

145. (1) (a) Iemand wat 'n serwituut van opdamming, waterleiding, dreinerings of opgaring wil eis, kan na kennisgewing aan die eienaar van die betrokke grond, daardie grond betree en daarop enige ondersoek doen en enige werksaamhede onderneem wat hy nodig ag ten einde die omvang en aard van die vereiste serwituut te bepaal, en moet in 'n kennisgewing waarby so 'n serwituut geëis word, vermeld, volgens die aard van die serwituut—
- (i) die roete waarlangs die water gelei of uitgekeersal word;
 - (ii) die plek waar die water opgegaar en die benaderde oppervlakte wat oorstroom sal word;
 - (iii) die aard en plek van enige werke, met inbegrip van werke, as daar is, waarna in artikel *honderd vier-en-veertig* verwys word, voorgestel om gebou te word;
 - (iv) die hoeveelheid en die aard van die materiaal van bedoelde grond wat nodig sal wees vir die bou van waterwerke, en die plek waarvandaan voorgestel word om daardie materiaal te neem;
 - (v) die grond wat tydelik vir boukampe en permanent vir bewoning deur persone en vir werksplekke of opslagplekke wat nodig is in verband met die bestuur en onderhoud van die betrokke werke nodig sal wees;
 - (vi) die vergoeding wat aangebied word;
 - (vii) of 'n tydelike dan wel 'n permanente serwituut geëis word en, indien tydelik, die tydperk waarvoor hy die serwituut wil geniet.
- (b) Die bepalinge van sub-artikels (3) en (4) van artikel *honderd-en-tien* is *mutatis mutandis* van toepassing in verband met toegang, ondersoek of werksaamhede in paragraaf (a) van hierdie sub-artikel bedoel.
- (c) Daar moet aan 'n kennisgewing ingevolge sub-artikel (1) waarin 'n serwituut geëis word, 'n plan geheg

nection with the construction of the work, and to occupy permanently so much land as may be reasonably required for the residence of such persons and for workshops or storage purposes as may be necessary in connection with the control, operation and maintenance of the water works in question.

- (2) (a) The taking of any material or substance in terms of paragraph (a) of sub-section (1), or the removal and use of any tree, bush, vegetation or other obstacle in terms of paragraph (b) of the said sub-section, or the depositing of any material or substance in terms of paragraph (c) of the said sub-section, or the occupation temporarily or permanently of land in terms of paragraph (d) of the said sub-section, shall be subject to an obligation to pay compensation to the owner of the land in question, unless such material or substance is taken or such tree, bush, vegetation or other obstacle is cut down or removed or such material or substance is deposited, within the defined area of the servitude, or such occupation is restricted to the defined area of the servitude.
- (b) Compensation to be paid in terms of paragraph (a) shall in the absence of agreement be determined by a water court.

143. Any person who, by paying a proportionate share of the cost of constructing any water work in terms of sub-section (4), (5) or (6) of section *one-hundred and forty-one*, or by agreement or in any other lawful manner, has acquired a right to use such work, shall be liable to pay a like proportion of the cost of the maintenance and repair of such work, unless such person has by notice in writing to the owner of the dominant tenement surrendered such right.

Right to use a water work subject to obligation to contribute towards repairs.

144. Every person who, under this Chapter, constructs water works for the passage, drainage, diversion or disposal of water which prevent any owner passing freely over or on to his land, or check the circulation of water in the irrigation or drainage of such land, shall at his own expense construct and maintain in repair such bridges and other works as will make communication reasonably safe and convenient, and such culverts, aqueducts and other works as are necessary to secure the free circulation of such water, unless he be exempt from such duty by agreement or otherwise.

Duty of person acquiring servitude to construct access bridges etc.

145. (1) (a) Any person who proposes to claim a servitude of abutment, aqueduct, drainage or storage, may after notice to the owner of the land in question, enter upon that land and make any investigation and undertake any operations thereon which he may consider necessary for the purpose of determining the extent and nature of the servitude required, and shall in any notice claiming such a servitude set forth, according to the nature of the servitude—

Mode of acquiring servitudes under this Chapter.

- (i) the line of passage along which the water is to be conducted or diverted;
 - (ii) the locality on which the water is to be stored and the approximate area which will be submerged;
 - (iii) the nature and locality of any works, including works, if any, referred to in section *one hundred and forty-four*, which it is proposed to construct;
 - (iv) the quantity and nature of the material required from the said land for the purpose of constructing water works and the place from which it is proposed to take such material;
 - (v) the land required temporarily for construction camps and permanently for the residence of persons and for workshops or storage purposes necessary in connection with the operation and maintenance of the works in question;
 - (vi) the compensation which is offered;
 - (vii) whether a temporary or permanent servitude is claimed and, if temporary, the period of time during which he wishes to enjoy the servitude.
- (b) The provisions of sub-sections (3) and (4) of section *one hundred and ten* shall *mutatis mutandis* apply in connection with any entry, investigation or operations referred to in paragraph (a) of this sub-section.
- (c) There shall be attached to any notice under sub-section (1) in which a servitude is claimed, a plan showing

word aantoonende die plek, omgewing en aard van enige voorgestelde werke ten opsigte waarvan daardie serwituut geëis word en, in die geval van 'n serwituut van waterleiding of 'n serwituut van dreinerings, die roete van die waterleiding of afvoersloot wat gebou sal word.

(2) Indien die eienaar nie binne een maand na bestelling van 'n kennisgewing waarin 'n serwituut geëis word, tot die eis of tot enige besonderhede in die kennisgewing vermeld, of tot enigiets anders wat vir die serwituut nodig is, inwillig, en tot die opneming van daardie besonderhede en ander sake in 'n akte van ooreenkoms en die notariële verlyding van bedoelde akte instem nie, kan die eiser by 'n waterhof om beslegting van die sake in geskil aansoek doen.

(3) Die persoon wat so 'n serwituut eis, moet wanneer hy 'n kennisgewing ten opsigte daarvan aan die eienaar van die betrokke grond besorg, per geregistreerde pos 'n afskrif van daardie kennisgewing en van elke aanhangsel daarby stuur aan elke persoon wat volgens die titelbewys van bedoelde grond of die registers van die Registrateur van Mynbriewe of van enige ander Regeringskantoor waar regte toegestaan ingevolge enige wet met betrekking tot prospekter- of mynbouwerk-saamhede aangeteken word, enige belang in sodanige grond het en wie se verblyfplek hy geredelik kan vasstel.

Jurisdiksie van waterhof betreffende eise vir serwitute.

146. (1) 'n Waterhof kan by die verhoor van 'n eis vir 'n serwituut ingevolge hierdie Hoofstuk—

- (a) die eis toestaan met of sonder wysigings, en onderworpe aan die voorwaardes wat hy billik ag;
- (b) vergoeding vir die verleende serwituutreg toestaan of weier om dit toe te staan;
- (c) indien die grond waarop die serwituut geëis word, aan 'n huurkontrak, verband, vruggebruik of ander las onderworpe is en die huurder, verbandhouer, vruggebruiker of ander persoon ten gunste van wie die grond belas is 'n aandeel van enige toegestane vergoeding eis, oor die eis van die huurder, verbandhouer, vruggebruiker of sodanige ander persoon, asook oor die bedrag, as daar is, van sy aandeel in die vergoeding beslis;
- (d) die eis van die hand wys, maar slegs op die volgende gronde, te wete—
 - (i) dat die geëiste serwituut nie binne die bepalings van hierdie Hoofstuk val nie;
 - (ii) dat die doel waarvoor die serwituut geëis word op 'n ander wyse beter bereik kan word;
 - (iii) dat die eis nie te goeder trou gedoen word nie of dat die persoon wat bedoelde serwituut eis die waterhof nie tevrede gestel het nie dat hy alle redelike stappe gedoen het om die verblyfplek van elke persoon aan wie 'n afskrif van 'n in artikel honderd vyf-en-veertig bedoelde kennisgewing volgens sub-artikel (3) van daardie artikel gestuur moet word, vas te stel, of om so 'n afskrif aan enige sodanige persoon te stuur;
 - (iv) dat die werke met betrekking tot die geëiste serwituut nie van genoegsame nuttigheid is om die verkryging van die serwituut te regverdig nie;
 - (v) dat die werke wat op die serwituut betrekking het, ernstige inbreuk sal maak op 'n Staatswaterwerk of op 'n waterwerk van die Randwaterraad of 'n besproeiingsraad of 'n waterraad; of
 - (vi) dat die skade wat waarskynlik deur die voorgestelde werke veroorsaak sal word, groter sal wees as die voordele wat daaruit verkry sal.

(2) By die vasstelling van die bedrag van vergoeding kan 'n waterhof 'n bedrag wat hy redelik beskou, aftrek op grond van voordele wat die eienaar, huurder of vruggebruiker, na gelang van die geval, van die grond waarop die serwituut verkry word, as gevolg van die serwituut mag behaal.

(3) Vergoeding vir 'n tydelike serwituut deur 'n waterhof toegestaan, bedra hoogstens 'n jaargeld gelyk aan die huurwaarde (sover dit vasgestel kan word) van die grond wat werklik deur die beoogde werk beslaan sal word, tesame met 'n bedrag vir werklike ongerief of verlies wat waarskynlik deur die uitoefening van die serwituutreg gely sal word, soos na goeddunke deur 'n waterhof bepaal.

(4) Vergoeding vir 'n permanente serwituut deur 'n waterhof toegestaan, bedra hoogstens 'n bedrag volgens die bepalings van paragraaf (b) van sub-artikel (3) van artikel sestig bereken.

(5) By die vasstelling van die bedrag van vergoeding in die geval van 'n serwituut van waterleiding ten opsigte van bestaande

the position, locality and nature of any proposed works in respect of which that servitude is claimed and, in the case of a servitude of aqueduct or a servitude of drainage, the line of passage of the aqueduct or drain to be constructed.

(2) If the owner does not within one month after the service of a notice claiming a servitude, agree to the claim, or to any particulars stated in the notice, or to any other matter necessary for the servitude, and consent to the embodiment of such particulars and other matters in a deed of agreement and to execute such deed notariaily, the claimant may apply to a water court for the settlement of the several matters in dispute.

(3) The person claiming any such servitude shall when serving notice thereof upon the owner of the land affected transmit by registered post to every person shown upon the title deed of such land, or in the records of the Registrar of Mining Titles or of any other Government office in which rights granted under any law relating to prospecting or mining are recorded, to have any interest in such land and whose whereabouts he can readily ascertain, a copy of that notice and of every annexure thereto.

146. (1) A water court may, upon the hearing of a claim to any servitude under this Chapter—

Jurisdiction of water court as to claims for servitudes.

- (a) award the same with or without modifications, and subject to such conditions as it deems just;
- (b) award or refuse to award compensation for the right of servitude granted;
- (c) if the land on which the servitude is claimed is subject to a lease, mortgage, usufruct or other encumbrance, and the lessee, mortgagee, usufructuary or other person in whose favour the land is encumbered claims a share of any compensation awarded, determine the claim of the lessee, mortgagee, usufructuary or such other person and the amount (if any) of his share of the compensation;
- (d) dismiss the claim, but on the following grounds only, namely—
 - (i) that the servitude claimed does not fall within the provisions of this Chapter;
 - (ii) that the object for which the servitude is claimed could be better obtained in another manner;
 - (iii) that the claim is not made in good faith or that the person claiming such servitude has not satisfied the water court that he has taken all reasonable steps to ascertain the whereabouts of every person on whom any copy of a notice referred to in section *one hundred and forty-five* is, in terms of sub-section (3) of that section, required to be served, or to serve such a copy on any such person;
 - (iv) that the works appertaining to the servitude claimed are not of sufficient utility to justify the acquisition of the servitude;
 - (v) that the works appertaining to the servitude will seriously interfere with any Government water work or with any water work of the Rand Water Board or an irrigation board or a water board; or
 - (vi) that the damage likely to be caused by the proposed works would be greater than the benefits that would be derived therefrom.

(2) In fixing the amount of compensation a water court may deduct such amount as it thinks reasonable in consideration of any advantage which the owner, lessee or usufructuary, as the case may be, of the land on which the servitude is acquired may derive by reason of the servitude.

(3) Compensation awarded by a water court for a temporary servitude shall not exceed an annuity equal to the rental value (as nearly as can be ascertained) of the land to be actually occupied by the work contemplated, together with such amount for actual inconvenience or loss likely to be suffered by the exercise of the right of servitude as a water court may in its discretion determine.

(4) Compensation awarded by a water court for a permanent servitude shall not exceed an amount assessed in accordance with the provisions of paragraph (b) of sub-section (3) of section *sixty*.

(5) In fixing the amount of compensation in the case of a servitude of aqueduct in respect of existing works, the water

werke, neem die waterhof die koste van sodanige werke, met inbegrip van ondergeskikte uitkeerwerke, en die koste verbonde aan die verkryging van enige serwitute ten opsigte van sodanige werke, in aanmerking, en sodanige vergoeding moet 'n eweredige deel van die koste of die waarde van sodanige werke, soos die hof billik ag, insluit.

Omskepping van tydelike serwituut in permanente serwituut.

147. (1) Iemand wat ingevolge hierdie Hoofstuk of 'n vorige wet 'n tydelike serwituut verkry het, is geregtig om daardie serwituut in 'n permanente serwituut te laat omskep teen betaling aan die eienaar van die grond van die vergoeding waarop ooreengekom word of wat by ontstentenis van ooreenkoms deur 'n waterhof op aansoek aan hom gerig, bepaal mag word.

(2) Die bepalings van artikel *honderd ses-en-veertig* word sower moontlik toegepas by die bepaling van die bedrag van bedoelde vergoeding, maar die waterhof moet wanneer hy die vergoeding toewys, behoorlik rekening hou met die bedrag tevore ten opsigte van voormelde tydelike serwituut betaal.

Bou en instandhouding van werke ten opsigte waarvan serwituut verkry is.

148. Behoudens die bepalings van hierdie Hoofstuk, moet werke nodig vir die genot van 'n serwituut ingevolge hierdie Hoofstuk of 'n vorige wet verkry, gebou en behoorlik in stand gehou word uitsluitlik op die koste van die persoon wat die serwituut verkry.

Verval van 'n serwituut.

149. 'n Serwituut ingevolge hierdie Hoofstuk of 'n vorige wet kragtens bevel van 'n waterhof verkry, verval indien die werk voorgestel om uitgevoer te word nie voltooi en die water nie gebruik word nie binne drie jaar vanaf die datum van die bevel, of binne so 'n verdere tydperk as wat bedoelde waterhof mag vasgestel het, of binne 'n langer tydperk waarvoor die betrokke partye mag ooreengekom het.

Herstel en skoonmaak van kanale oor die grond van 'n ander gebou.

150. (1) Indien 'n kanaal, voor of ander sloot wat ingevolge hierdie Wet of 'n vorige wet oor die grond van 'n ander persoon gebou is vir die lei of dreinerings van of beskikking oor water, herstel of skoongemaak moet word, moet die persoon wat ten opsigte van daardie kanaal, voor of ander sloot die reg van waterleiding, dreinerings of beskikking het of daarop aanspraak maak, indien skriftelik deur die eienaar van die grond aangesê om bedoelde kanaal, voor of sloot te herstel of skoon te maak, die nodige werk binne redelike tydperk uitvoer, en indien hy versuim om dit te doen, kan die eienaar alle sodanige werk laat doen en in 'n bevoegde hof die koste daarvan verhaal op die persoon wat voormelde reg het of daarop aanspraak maak.

(2) Iemand wat so 'n reg het of daarop aanspraak maak, wat wetens toelaat of toesien dat so 'n kanaal, voor of ander sloot onherstel bly of in so 'n toestand kom dat dit skoongemaak moet word, is aanspreeklik vir alle skade wat daaruit mag ontstaan.

Registrasie van serwitute.

151. (1) (a) Enige serwituut ingevolge hierdie Hoofstuk verkry of 'n soortgelyke serwituut ingevolge 'n vorige wet verkry, uitgesonderd 'n serwituut deur die Regering, die Randwaterraad of 'n besproeiingsraad of 'n waterraad by wyse van onteiening verkry, word nie erken nie alvorens dit op die by regulasie voorgeskrewe wyse teen die onderskeie titelbewyse van die grond waarteen en ten gunste waarvan dit aldus verkry is, geregistreer is, en die registrateur van aktes in bevel van die registrasiekantoor van aktes waarin die titelbewys van bedoelde grond geregistreer is, moet by oorlegging van 'n behoorlik verlyde notariële ooreenkoms of 'n bevel van 'n waterhof, bedoelde serwituut teen die titelbewyse van sodanige grond registreer.

(b) Die bepalings van sub-artikel (3) van artikel *een-en-veertig* is *mutatis mutandis* ten opsigte van die registrasie van serwitute ingevolge hierdie sub-artikel van toepassing.

(2) Vir die doeleindes van registrasie van 'n serwituut ingevolge hierdie Hoofstuk verkry, en ondanks die bepalings van enige ander wet, moet die betrokke registrateur van aktes, indien deur 'n waterhof daartoe gelas, sodanige planne aanvaar waarop die ligging van die serwituut op die grond wat aan bedoelde serwituut onderworpe is, aangewys word, as wat deur daardie hof aangedui mag word.

Voorbehoud ten gunste van die Spoorweg- en Hawensadministrasie.

152. Die bepalings van hierdie Hoofstuk word nie so uitgelê dat dit serwitute of ander regte wat voor of na die inwerkingtreding van hierdie Wet wettig deur onteiening of andersins deur die Suid-Afrikaanse Spoorweg- en Hawensadministrasie verkry is, raak nie.

court shall take into account the cost of such works, including any ancillary diversion works, and the cost of acquiring any servitudes in respect of such works, and such compensation shall include a proportionate share of the cost or the value of such works, as the court deems equitable.

147. (1) A person who has under this Chapter or a prior law acquired a temporary servitude, shall be entitled to have such servitude converted into a permanent servitude on payment to the owner of the land of such compensation as may be agreed upon or failing agreement determined by a water court upon application made thereto.

Conversion of temporary servitude into permanent servitude.

(2) The provisions of section *one hundred and forty-six* shall, as far as possible, be applied in determining the amount of such compensation, but the water court shall in making any award of compensation have due regard to the amount previously paid in respect of the temporary servitude aforesaid.

148. Subject to the provisions of this Chapter, works required for the enjoyment of a servitude acquired under this Chapter or any prior law shall be constructed and properly maintained solely at the cost of the person acquiring the servitude.

Construction and maintenance of works in respect of which servitude has been obtained.

149. A servitude acquired under this Chapter or any prior law in terms of an order of a water court, shall lapse if the work proposed to be executed be not completed and the water be not utilized within three years from the date of the order, or within such further period as the said water court may have fixed, or within any extended period agreed upon between the parties concerned.

Lapse of a servitude.

150. (1) If any canal, furrow or other channel constructed under this Act or any prior law across the land of another person for the purpose of conveying, draining or disposing of water be out of repair or require cleaning, the person having or claiming the right of aqueduct, drainage or disposal in respect of such canal, furrow or other channel shall if required in writing by the owner of the land to repair or clean the said canal, furrow or channel, carry out the necessary operations within a reasonable time, and if he fails to do so, the owner may cause all such work to be done and recover in a competent court the cost thereof from the person having or claiming such right aforesaid.

Repair and cleaning of channels constructed across the land of another person.

(2) Any person having or claiming such a right who knowingly allows or suffers any such canal, furrow or other channel to be out of repair or to be in such a state as to require cleaning, shall be liable for all damage which may arise therefrom.

151. (1) (a) A servitude acquired under this Chapter or any similar servitude acquired under any prior law, other than a servitude acquired by expropriation by the Government, the Rand Water Board, an irrigation board or a water board, shall not be recognized until registered in manner prescribed by regulation against the respective title deeds of the land against and in favour of which it has been so acquired, and the registrar of deeds in charge of the deeds registry in which the title deed to any such land is registered shall, upon production of a duly executed notarial agreement or an order of a water court, register the said servitude against the title deeds of such land.

Registration of servitudes.

(b) The provisions of sub-section (3) of section *fifty-one* shall *mutatis mutandis* apply in respect of the registration of servitudes under this sub-section.

(2) For the purposes of the registration of a servitude acquired under this Chapter, and notwithstanding the provisions of any other law, the registrar of deeds concerned shall, if ordered thereto by a water court, accept such plans showing the position of the servitude on the land subject to such servitude as may be indicated by the said court.

152. Nothing in this Chapter contained shall be construed as affecting servitudes or other rights lawfully acquired by expropriation or otherwise, either before or after the commencement of this Act, by the South African Railways and Harbours Administration.

Saving in favour of the Railways and Harbours Administration.

HOOFSTUK IX.

BESPROEINGSLENINGS, AANSPEEKLIKHEDE EN SUBSIDIES.

Aansoeke om
besproeiings-
lenings.

153. (1) 'n Eienaar van grond of 'n besproeiingsraad wat geld vir die bou van 'n waterwerk by wyse van 'n lening wil opneem, kan by die Minister om 'n besproeiingslening aansoek doen, met vermelding van die doel waarvoor die lening benodig word, die aard van die voorgestelde werk, die geraamde boukoste daarvan, die ligging en omvang van die grond wat daardeur besproei of gedreineer moet word, die mate waarin die waarde van die grond deur die werk verhoog sal word, en—

(a) indien die applikant 'n grondeienaar is, die aard en waarde van die eiendom as sekuriteit vir die lening aangebied, en die mate waarin die grond reeds verhipotekeer is en die naam en adres van elke verbandhouer; of

(b) indien die applikant 'n besproeiingsraad is, die mate waarin die deur die raad ingevolge hierdie Wet hefbare belastinge of enige bates van die raad reeds belas of verhipotekeer is en die persone in wie se guns die laste of hipoteke bestaan.

(2) Waar die bedrag van so 'n lening nie negehoonderd pond te bowe gaan nie, is uitvoerige planne en spesifikasies nie nodig nie, behalwe soos in sub-artikel (3) bepaal, maar voldoende inligting moet verstrek word om die Minister in staat te stel om die waarde van die skema uit 'n tegniese, landbou- en finansiële oogpunt te beoordeel.

(3) Indien die bedrag van die voorgestelde lening negehoonderd pond te bowe gaan: of die verhoogde waarde van die grond ten gevolge van die voorgestelde werk deel van die aangebode sekuriteit uitmaak, moet die aansoek van 'n verslag, planne, spesifikasies en ramings van die koste van die voorgestelde werke en die ander by regulasie voorgeskrewe dokumente, en in die geval van 'n aansoek deur 'n besproeiingsraad, van 'n opgawe van die bestaande laste van die raad en 'n inkomste- en uitgawerekening onder die gepaste hoofde, vergesel gaan.

(4) In die geval van so 'n aansoek deur 'n besproeiingsraad, moet die voorsitter daarvan sertifiseer dat in alle opsigte aan die bepalings van sub-artikel (2) van artikel *drie-en-negentig* voldoen is.

Skepping van las
op grond vir
sekere lenings en
vir geld aan boor-
gate bestee.

154. (1) Waar die Regering voor of na die inwerkingtreding van hierdie Wet 'n bedrag van hoogstens tweehonderd-en-veertig pond vir die bou van 'n waterwerk aan 'n grondeienaar geleen het of onderneem het om dit aan hom te leen, of 'n eienaar van grond voor of na bedoelde inwerkingtreding aanspreeklikheid aanvaar het vir 'n deel van die koste wat deur die Regering aangegaan is of sal word om vir daardie eienaar 'n boorgat op daardie grond te maak, kan die Minister die registrateur van aktes in bevel van die registrasiekantoor van aktes waarin die titelbewys van daardie grond geregistreer is, skriftelik gelas om die lening of aanspreeklikheid gratis op die titelbewys van daardie grond en in die gepaste registers in daardie kantoor aan te teken.

(2) Die dokument wat die lasgewing bevat, moet van die eienaar se titelbewys van die betrokke grond vergesel gaan en moet aangee—

(a) 'n beskrywing van die betrokke grond en die nommer en datum van die titelbewys daarvan;

(b) die naam van die eienaar van daardie grond;

(c) die totale bedrag van die lening of aanspreeklikheid wat aangeteken moet word;

(d) die rentevoet op daardie lening of aanspreeklikheid betaalbaar;

(e) die bedrag en tydperk van die paaielemente waarin daardie lening of aanspreeklikheid afbetaal moet word.

(3) So 'n aantekening op die titelbewys van grond gemaak, skep 'n las op die grond vir die aangetekende bedrag en enige rente daarop verskuldig, wat by oordrag van die grond daaraan verbonde bly en elke daaropvolgende eienaar daarvan bind.

(4) So 'n las moet binne 'n tydperk van hoogstens twintig jaar in gelyke paaielemente wat die Minister bepaal het, afgelos word: Met dien verstande dat 'n eienaar van die grond waaraan die las verbonde is, te eniger tyd die las in sy geheel kan aflos deur betaling van 'n bedrag gelyk aan die onafgeloste deel van die las, na aftrekking daarvan van daarby ingerekende rente vir die onverstreke gedeelte van bedoelde tydperk.

(5) Geen individuele gedeelte van 'n stuk grond wat aan so 'n las onderworpe is, mag oorgedra word nie (hetsy by verdeling of andersins), behalwe met toestemming van die

CHAPTER IX.

IRRIGATION LOANS, LIABILITIES AND SUBSIDIES.

153. (1) An owner of land or an irrigation board desiring to raise money on loan for the construction of a water work may make application to the Minister for an irrigation loan stating the purpose for which the loan is required, the nature of the proposed work, the estimated cost of the construction thereof, the position and extent of the land to be irrigated or drained thereby, the extent to which the value of the land will be enhanced by the work, and—

Applications for irrigation loans.

- (a) if the applicant is an owner of land, the nature and value of the property offered as security for the loan, and the extent to which the land has already been hypothecated, and the name and address of every mortgagee; or
- (b) if the applicant is an irrigation board, the extent to which the rates leviable by the board under this Act or any assets of the board have already been charged or hypothecated and the persons in whose favour the charges or hypothecations exist.

(2) Where the amount of any such loan does not exceed nine hundred pounds, detailed plans and specifications shall not be required, except as provided in sub-section (3), but sufficient information shall be furnished to enable the Minister to test the value of the scheme from a technical, agricultural and financial point of view.

(3) If the amount of the proposed loan exceeds nine hundred pounds or the enhanced value of the land arising from the proposed work forms part of the security offered, the application shall be accompanied by a report, plans, specifications and estimates of the cost of the proposed works and such other documents as may be prescribed by regulation, and, in the case of an application by an irrigation board, by a statement of the existing liabilities of the board and an account of its revenue and expenditure under appropriate heads.

(4) In the case of any such application by an irrigation board, the chairman thereof shall certify that the provisions of sub-section (2) of section *ninety-three* have been complied with in every respect.

154. (1) Where the Government has before or after the commencement of this Act, lent or undertaken to lend any amount not exceeding two hundred and fifty pounds to an owner of land for the construction of a water work, or an owner of land has before or after such commencement, assumed liability for any part of the cost incurred or to be incurred by the Government in sinking a borehole for such owner on such land, the Minister may in writing direct the registrar of deeds in charge of the deeds registry in which the title to that land is registered, to note, free of charge, the loan or liability on the title deed of that land and in the appropriate registers in that registry.

Creation of charge on land for certain loans and for moneys spent on boreholes.

(2) The document conveying that direction shall be accompanied by the owner's title deed to the land in question and shall set forth—

- (a) a description of the land in question and the number and date of its title deed;
- (b) the name of the owner of such land;
- (c) the total amount of the loan or liability to be noted;
- (d) the rate of interest payable on that loan or liability;
- (e) the amount and period of the instalments by which that loan or liability is to be repaid.

(3) The making of such a note on the title deed of land shall create a charge upon the land of the amount noted and any interest due thereon, which shall remain attached to the land on transfer thereof and shall bind every successive owner thereof.

(4) Any such charge shall be redeemed within a period not exceeding twenty years and in such equal instalments as the Minister has determined: Provided that any owner of the land to which the charge attaches, may at any time redeem the charge entirely by the payment of an amount equal to the unredeemed portion of the charge, after deduction therefrom of any interest included therein for the unexpired part of the said period.

(5) No individual portion of any piece of land which is subject to any such charge may be transferred (whether on partition or otherwise) except with the Minister's consent, and

Minister, en die Minister bepaal in so 'n geval watter aandeel van die las aan elke gedeelte van die grond toegewys moet word, en die betrokke registrateur van aktes moet ooreenkomstig so 'n toewysing die nodige aantekenings gratis op die betrokke titelbewyse en in die gepaste registers aanbring op die wyse waarop die oorspronklike aantekening gemaak was, en daarop is elke bedoelde gedeelte belas asof die aantekening oorspronklik op die titelbewys daarvan vir die aldus toegewese bedrag gemaak was.

(6) Indien 'n paalement ten opsigte van die las verskuldig meer as drie maande agterstallig is, kan die Minister die verskuldigde paalement of die volle bedrag wat die eienaar volgens sub-artikel (4) of (5) sou moes betaal om die las geheel en al af te los op die betrokke eienaar verhaal, en hy kan daardie volle bedrag insgelyks verhaal indien die eienaar in gebreke gebly het om aan enige voorwaarde van die lening of aanspreeklikheid waarop bedoelde las betrekking het, te voldoen.

(7) Wanneer 'n las wat ingevolge hierdie artikel geskep is, ten volle afgelos is, moet die Minister daarvan skriftelik kennis gee aan die betrokke registrateur van aktes wat daarop die betrokke aantekenings rojeer.

Sekuriteit vir
besproeiings-
lenings.

155. (1) 'n Besproeiingslening word nie aan 'n ander grond-eienaar as 'n besproeiingsraad toegestaan nie, behalwe—

(a) in die geval van so 'n lening (uitsluitende rente wat opgeloopt het of mag oploop) wat meer as tweehonderden-vyftig pond bedra, teen sekuriteit van 'n verband op vasgoed; en

(b) in die geval van so 'n lening (uitsluitende rente wat opgeloopt het of mag oploop) wat meer as tweeduisend vyfhonderd pond bedra, teen sekuriteit van 'n eerste verband op vasgoed,

en die Minister kan ook in die geval van so 'n lening wat nie tweehonderden-vyftig pond oorskry nie, sekuriteit in die vorm van 'n verband op sodanige goed verlang.

(2) (a) Die Minister aanvaar geen verband op vasgoed as sekuriteit vir 'n besproeiingslening nie, tensy die bedrag van die aangevraagde lening, tesame met enige bedrag waarvoor die eiendom reeds verhipotekeer is, minder is as twee-derdes van die waarde van die vasgoed soos vir die doel bepaal deur 'n persoon kragtens sub-artikel (1) van artikel *sewentig* van die Landbankwet, 1944 (Wet No. 13 van 1944), aangestel, of na goeddunke van die Minister deur een of meer beëdigde taksateurs of deur 'n raad wat die Goewerneur-generaal aangestel het om grond te waardeer: Met dien verstande dat die Minister na goeddunke by sodanige waarde 'n bedrag kan byvoeg wat nie die bedrag deur die Minister geraam as die koste van die voorgestelde werk te bowe gaan nie, waarmee die waarde van bedoelde goed sal toeneem as gevolg van die bedoelde werk ten opsigte waarvan die lening benodig word, en in so 'n geval word bedoelde waarde tesame met die bedrag aldus bygevoeg, by die toepassing van hierdie sub-artikel geag die waarde van die betrokke goed te wees.

(b) Die koste van enige waardebepaling ingevolge paragraaf (a) moet deur die applikant om die betrokke lening betaal word.

(3) Die sekuriteit ten opsigte van 'n besproeiingslening aan 'n besproeiingsraad is die belastings en vorderings wat deur daardie raad ingevolge hierdie Wet gehef kan word, of die ander sekuriteit wat deur die Minister goedgekeur mag word.

Ondersoek van
aansoeke om
lenings.

156. Indien die Minister by ontvangs van 'n aansoek om 'n besproeiingslening met die aangebode sekuriteit tevrede is, moet hy 'n raming van die waarskynlike koste van die werk ten opsigte waarvan daardie lening benodig word, laat maak en ondersoek laat instel omtrent die vraag of die voorgestelde werke 'n verbetering in die jaarlikse inkomste wat van die grond verkry kan word, sal aanbring wat meer sal wees as die bedrag wat jaarliks ter delging van die lening betaalbaar sal wees, indien dit toegestaan word vir die grootste aantal jare waarvoor dit na sy mening toegestaan behoort te word, met inagneming van die aard en waarskynlike duursaamheid van die werke.

Bevoegdheid om
besproeiingslenings
toe te staan.

157. (1) By voltooiing van die ondersoek in artikel *honderd ses-en-vyftig* bedoel, kan die Minister die aansoek om die betrokke lening tesame met sy aanbeveling voorlê aan die Goewerneur-generaal, wat kan gelas dat 'n besproeiingslening vir so 'n bedrag en terugbetaalbaar binne so 'n tydperk as

the Minister shall in any such case determine what share of the charge shall be allocated to each portion of the land, and the registrar of deeds concerned shall make the necessary notes in accordance with such allocation, free of charge, on the relevant title deeds and in the appropriate registers, in the manner in which the original charge was noted, and thereupon each such portion shall be charged as if the note had originally been made on its title deed for the amount so allocated.

(6) If any instalment due under the charge is in arrear for more than three months, the Minister may recover from the owner concerned the instalment due or the full amount which the owner would have to pay in terms of sub-section (4) or (5) in order to redeem the charge entirely, and he may in like manner recover that full amount if the owner has failed to comply with any condition of the loan or liability to which the charge relates.

(7) Whenever a charge created under this section has been redeemed in full, the Minister shall in writing notify the registrar of deeds concerned, who shall thereupon cancel the relevant notes.

155. (1) An irrigation loan shall not be granted to an owner of land other than an irrigation board, except—

Security for irrigation loans.

- (a) in the case of any such loan (excluding interest which has accrued or may accrue) exceeding two hundred and fifty pounds, upon the security of a mortgage of immovable property; and
- (b) in the case of any such loan (excluding interest which has accrued or may accrue) exceeding two thousand five hundred pounds, upon the security of a first mortgage of immovable property,

and the Minister may also, in the case of any such loan which does not exceed two hundred and fifty pounds, require security in the form of a mortgage upon such property.

- (2) (a) The Minister shall not accept a mortgage on immovable property as security for an irrigation loan unless the amount of the loan applied for, together with any amount for which the property is already hypothecated, is less than two-thirds of the valuation of the property made for the purpose by a person appointed under sub-section (1) of section *seventy* of the Land Bank Act, 1944 (Act No. 13 of 1944), or, in the discretion of the Minister, by one or more sworn appraisers or by a board nominated by the Governor-General for the purpose of valuing land: Provided that the Minister may in his discretion add to such valuation an amount, not exceeding the amount estimated by the Minister as the cost of the proposed work, by which the said property will be enhanced in value by the said work in respect of which the loan is required, and in such a case the said valuation together with the amount so added shall for the purposes of this sub-section be deemed to be the valuation of the property in question.

- (b) The cost of any valuation made in terms of paragraph (a) shall be paid by the applicant for the loan in question.

(3) The security in respect of an irrigation loan to an irrigation board shall be the rates and charges leviable by such board under this Act or such other security as may be approved by the Minister.

156. If upon receipt of an application for an irrigation loan, the Minister is satisfied as to the security offered, he shall cause an estimate to be made of the probable cost of the work in respect of which such loan is required, and investigations to be made into the question whether the proposed works will effect an improvement in the annual income which may be derived from the land in excess of the amount which would be payable annually in redemption of the loan if it were granted for the greatest number of years for which it should in his opinion be granted, regard being had to the nature and probable durability of the works.

Investigation of applications for loans.

157. (1) Upon completion of the investigations referred to in section *one hundred and fifty-six*, the Minister may submit the application for the loan in question with his recommendation to the Governor-General, who may order that an irrigation loan for such amount and repayable within such period as the

Power to grant irrigation loans.

wat die Goewerneur-generaal mag bepaal, aan die applikant toegestaan word uit geld deur die Parlement vir die doel beskikbaar gestel, en die lening word dienoreenkomstig toegestaan: Met dien verstande dat—

- (a) by die vasstelling van die tydperk van die lening, daar gelet moet word op die aard en waarskynlike duursaamheid van die werke soos deur die Minister bepaal;
- (b) 'n besproeiingslening—
 - (i) terugbetaalbaar binne 'n tydperk van meer as dertig jaar; of
 - (ii) ten opsigte van waterwerke waarvan die totale raming (soos deur die Minister gedoen) van die koste by voltooiing as 'n selfstandige skema meer as dertigduisend pond bedra, nie toegestaan word nie tensy sodanige lening by besluit van beide Huise van die Parlement goedgekeur is en, in die geval van 'n lening vir 'n in sub-paragraaf (ii) bedoelde waterwerk, 'n verslag oor die voorgestelde werk in beide bedoelde Huise ter Tafel gelê is.
- (2) Die bepalinge van sub-artikel (2) van artikel *agt-en-veertig* is *mutatis mutandis* van toepassing ten opsigte van 'n in paragraaf (b) van die voorbehoudsbepaling by sub-artikel (1) bedoelde verslag.
- (3) 'n Sertifikaat deur die Minister dat die verlening van 'n besproeiingslening, hetsy voor of na die inwerkingtreding van hierdie Wet toegestaan, deur die Goewerneur-generaal gelas is, is afdoende bewys dat aan alle vereistes ten opsigte van daardie lening, hetsy ten opsigte van die behoorlike instelling van 'n besproeiingsdistrik of die behoorlike vorm van die aansoek om die lening of enige ander aangeleentheid hoegenaamd, wat die uitreiking van so 'n lasgewing voorafgaan of daarmee in verband staan, behoorlik nagekom is.
- (4) Waar 'n besproeiingslening voor of na die inwerkingtreding van hierdie Wet aan 'n besproeiingsraad, met inbegrip van 'n in artikel *honderd-en-veertig* bedoelde sodanige raad, toegestaan is, word die lys van besproeibare en belasbare grond in die besproeiingsdistrik van daardie raad wat op die datum van die lasgewing vir die lening bestaan, vir alle doeleindes as 'n behoorlik en wettiglik opgestelde lys aanvaar.

Uitbetaling van besproeiingslenings aan applikante.

158. Wanneer 'n besproeiingslening toegestaan is, kan die direkteur na goeddunke en op die voorwaardes wat hy goedvind onverwyld 'n bedrag van hoogstens een-veertigste van die totale bedrag van die lening aan die applikant laat betaal, en kan hy daarna van tyd tot tyd teen 'n sertifikaat van 'n ingenieur of ander bevoegde persoon betreffende die hoeveelheid en geraamde waarde van die werk wat gedoen is, die verdere paaiemente van die lening wat hy goedvind aan die applikant laat betaal: Met dien verstande dat die direkteur geen deel van 'n besproeiingslening voorskiet nie alvorens daar ooreenkomstig artikel *honderd-veertigste* 'n aantekening op die titelbewys van die betrokke grond gemaak is of, na gelang van die geval, alvorens die applikant as sekuriteit vir die lening by die betrokke registrateur van aktes behoorlik 'n verband laat registreer het wat die eiendom, of die belastinge en vorderings, na gelang van die geval, wat die applikant ingestem het om te verhipotekeer, spesiaal aan die Regering verhipotekeer.

Las op eiendom of belastinge en vorderings en voorrang van besproeiingslenings.

159. (1) 'n Besproeiingslening teen sekuriteit van eiendom toegestaan, is 'n las op daardie eiendom, met voorrang bo enige ander las as 'n tevore bestaande geregistreerde verband ten gunste van 'n persoon wat nie tot die voorrang van daardie lening ingestem het nie.

(2) 'n Besproeiingslening wat aan 'n besproeiingsraad gemaak is teen die sekuriteit van belastinge en vorderings wat deur sodanige raad ingevolge hierdie Wet hefbaar is, is 'n las teen daardie belastinge en vorderings met voorrang bo alle ander lenings, laste of voorskotte ten opsigte waarvan bedoelde belastinge en vorderings ten gunste van 'n ander persoon verhipotekeer mag wees.

Delging van besproeiingslenings.

160. (1) Behoudens die bepalinge van artikel *honderd een-en-sestig*—

- (a) moet 'n besproeiingslening afgelos word deur die betaling, op die eerste dag van Januarie en die eerste dag van Julie in elke jaar, van een-helfte van die jaarlikse betaling vereis tot delging van die lening, ooreenkomstig 'n algemene skaal van tyd tot tyd deur die Minister vasgestel en in die *Staatskoerant* gepubliseer, en moet bedoelde betalings geskied totdat die hele lening met rente daarop terugbetaal is; en

Governor-General may determine, be made to the applicant out of moneys provided by Parliament for the purpose, and the loan shall be made accordingly: Provided that—

- (a) in fixing the period of the loan regard shall be had to the nature and probable durability of the works as determined by the Minister;
- (b) an irrigation loan—
 - (i) which is repayable within a period exceeding thirty years; or
 - (ii) in respect of any water works the total estimate (as made by the Minister) of the cost of which exceeds, when completed as an independent scheme, thirty thousand pounds,
 shall not be granted unless such loan has been approved by resolution of both Houses of Parliament, and, in the case of a loan in respect of a water work referred to in sub-paragraph (ii), a report on the proposed work has been laid on the Tables of both such Houses.

(2) The provisions of sub-section (2) of section *fifty-eight* shall *mutatis mutandis* apply in respect of any report referred to in paragraph (b) of the proviso to sub-section (1).

(3) A certificate by the Minister that an irrigation loan, whether granted before or after the commencement of this Act, was ordered to be made by the Governor-General, shall be conclusive evidence that all requirements in respect of the said loan, whether in respect of the due constitution of an irrigation district or the due form of the application for the loan, or of any other matter whatsoever precedent or incidental to the issue of such order, have been duly complied with.

(4) Where an irrigation loan has before or after the commencement of this Act, been granted to an irrigation board, including any such board referred to in section *one hundred and five*, the schedule of the irrigable and rateable land within the irrigation district of that board existing at the date of the ordering of the loan, shall for all purposes be accepted as a schedule properly and legally framed.

158. When an irrigation loan has been granted, the director may in his discretion and on such conditions as he may deem fit forthwith cause to be paid to the applicant an amount not exceeding one-fifth of the total amount of the loan, and may thereafter from time to time, upon a certificate by an engineer or other competent person as to the quantity and estimated value of the work done, cause to be paid to the applicant such further instalments of the loan as he deems fit: Provided that the director shall not advance any part of an irrigation loan until a note has been made on the title deed to the land in question in accordance with section *one hundred and fifty-four* or, as the case may be, until the applicant has passed before the registrar of deeds concerned a bond duly registered, specially hypothecating in favour of the Government as security for the loan, the property, or rates and charges, as the case may be, which the applicant has agreed to hypothecate.

Payment of irrigation loans to applicants.

159. (1) An irrigation loan made on the security of property shall be a charge upon that property, with priority over every other charge except a pre-existing registered mortgage bond in favour of a person who has not consented to the priority of the said loan.

Charge on property or rates and charges and priority of an irrigation loan.

(2) An irrigation loan made to an irrigation board on the security of the rates and charges leviable by such board under this Act shall be a charge on such rates and charges with priority over all other loans, charges or advances in respect of which the said rates and charges may have been hypothecated to any other person.

160. (1) Subject to the provisions of section *one hundred and sixty-one*—

Redemption of an irrigation loan.

- (a) an irrigation loan shall be redeemed by the payment, on the first day of January and the first day of July in every year, of one-half of the annual payment required to redeem the loan, in accordance with a general scale to be framed by the Minister from time to time and published in the *Gazette*, and such payments shall continue to be made until the whole loan with interest has been paid; and

(b) begin die afløstydperk van 'n besproeiingslening op die eerste dag van Januarie of die eerste dag van Julie, wat die Minister voorskryf, wat hoogstens drie jaar na die datum is waarop die werke ten opsigte waarvan die lening toegestaan was, volgens die Minister se oordeel voltooi behoort te wees.

(2) Die rente op 'n besproeiingslening word bereken teen die koers wat die Minister van Finansies van tyd tot tyd by kennisgewing in die *Staatskoerant* vasstel, en die rente teen die aldus vasgestelde koers is betaalbaar op enige lening of paaient daarvan vanaf die datum waarop dit voorgeskiet of betaal word: Met dien verstande dat die bepalings van hierdie artikel nie geag word die Minister van Finansies te belet om die bepalings van sub-artikel (1) van artikel een van die „Finansiële Regelings Wet, 1917” (Wet No. 42 van 1917), ten opsigte van so 'n lening toe te pas nie.

(3) Rente wat tussen die datum van die eerste voorskot op 'n besproeiingslening en die datum ingevolge sub-artikel (2) vir die aanvang van die delgingstydperk voorgeskryf betaalbaar is, word by die bedrag van die lening gevoeg en maak vir doeleindes van delging, maar nie rente nie, deel daarvan uit.

(4) 'n Besproeiingslening kan te eniger tyd gedeeltelik of ten volle gedelg word deur betaling van 'n bedrag bo en behalwe die half-jaarlikse paaientente, en indien enige saldo oorbly, word die halfjaarlikse paaientente daarna dienoooreenkomstig verminder.

(5) Op versoek van die lener kan die delgingstydperk te eniger tyd verminder word, mits 'n ooreenstemmende verhoging in die halfjaarlikse paaientente aangebring word.

Minister kan delgingsbepalings ten opsigte van besproeiingslenings in spesiale omstandighede wysig.

161. Ondanks die bepalings van artikel *honderd-en-sestig* kan die Minister wanneer spesiale omstandighede (soos tekort aan water, skade aan oeste, verslapping van markte of buitensporige koste tydens ontwikkeling) die halfjaarlikse terugbetaling van bedrae ingevolge bedoelde artikel ter delging van 'n besproeiingslening bemoeilik het, van tyd tot tyd op versoek van die skuldenaar daardie betalings oor 'n tydperk van hoogstens vyftien jaar verminder: Met dien verstande dat aan die einde van die tydperk ten opsigte waarvan sodanige vermindering van betalings toegestaan is, die gesamentlike bedrag van die verminderings, tesame met rente daarop, vir die doeleindes van delging by die bedrag van bedoelde lening gevoeg moet word en deel daarvan uitmaak en die periodieke betalings vereis tot delging van die lening binne die tydperk waarvoor dit toegestaan is, word dienoooreenkomstig verhoog totdat die lening ten volle afgelos is: Met dien verstande voorts dat rente nie op daardie gedeelte van die aldus by bedoelde lening gevoegde bedrag wat rente voorstel, betaalbaar is nie.

Subsidies op waterwerke.

162. (1) Behoudens die bepalings van sub-artikels (2) en (3), kan die Minister op aansoek uit gelde deur die Parlement vir die doel bewillig en op die woorwaardes wat hy na goeddunke opleë, aan enigiemand 'n subsidie toeken ten opsigte van die koste verbonde aan die aanbou van 'n waterwerk, hetsy daardie werk deur bedoelde persoon of ingevolge artikel *sewe-en-vyftig* deur die Minister gebou word.

(2) Tensy die totale koste van bedoelde waterwerk en die bedrag van die subsidie en van enige lening ingevolge hierdie Hoofstuk ten opsigte daarvan toegestaan te word afsonderlik in deur die Parlement goedgekeurde begrotings van uitgawes vermeld is—

(a) word geen subsidie ten opsigte van 'n waterwerk waarvan die totale koste volgens die Minister se oordeel waarskynlik dertigduisend pond sal oorskry, toegestaan nie;

(b) mag die bedrag van die subsidie aan 'n besproeiingsraad of plaaslike bestuur toegestaan te word, nie drie-en-dertig en 'n derde persent van die koste van die werk ten opsigte waarvan dit toegestaan word, oorskry nie;

(c) mag die bedrag van die subsidie wat aan enige persoon of liggaam, uitgesonderd 'n besproeiingsraad of plaaslike bestuur, toegestaan word, nie drie-en-dertig en 'n derde persent van die koste van die werk ten opsigte waarvan dit toegestaan word, of driehonderd pond, na gelang watter bedrag die kleinste is, oorskry nie: Met dien verstande dat indien 'n groep persone 'n gesamentlike waterwerk wil bou vir die besproeiing van grond wat aan hulle behoort, en die Minister van oordeel is dat hul doel gerieflik en doeltreffend bereik kan word sonder die instelling van 'n besproeiings-

- (b) the period of redemption of an irrigation loan shall begin from such first day of January or first day of July as the Minister may prescribe, being not later than three years from the date on which in the opinion of the Minister the works in respect of which the loan was granted ought to be completed.

(2) Interest on an irrigation loan shall be calculated at such rate as the Minister of Finance may fix from time to time by notification in the *Gazette* and the interest at the rate thus fixed shall be payable on any loan or instalment thereof from the date on which it is advanced or paid: Provided that nothing in this section contained shall be construed as preventing the Minister of Finance from applying the provisions of sub-section (1) of section *one* of the Financial Adjustments Act, 1917 (Act No. 42 of 1917), in respect of any such loan.

(3) Interest payable between the date of the first advance on an irrigation loan and the date prescribed under sub-section (2) for the commencement of the period of redemption shall be added to the amount of the loan, and form part of it for the purposes of redemption but not for interest.

(4) An irrigation loan may at any time be partially or entirely redeemed by payment of any sum in addition to the half-yearly payments and thereafter, if any balance be left, the half-yearly payments shall be reduced accordingly.

(5) The period of redemption may, at the request of the borrower, be reduced at any time, provided a corresponding increase be made in the half-yearly payments.

161. Notwithstanding the provisions of section *one hundred and sixty*, the Minister may, whenever special circumstances (such as failure of water supply, damage to crops, depression of markets or excessive costs during development) have made difficult the half-yearly repayment of sums under the said section to redeem an irrigation loan, from time to time reduce, at the request of the debtor, those payments over a period not exceeding fifteen years: Provided that, at the end of the period in respect of which such reduction of payments has been allowed, the aggregate amount of the reductions, together with interest thereon, shall be added to the amount of the said loan and form part of it for the purpose of redemption, and the periodical payments required to redeem the loan within the period for which it was granted shall be raised accordingly until the loan is entirely redeemed: Provided further that interest shall not be payable on that portion of the amount so added to the said loan which represents interest.

Minister may modify redemption provisions for irrigation loans in special circumstances.

162. (1) Subject to the provisions of sub-sections (2) and (3), the Minister may, on application, out of moneys provided by Parliament for the purpose, and on such conditions as he may deem fit to impose, grant to any person a subsidy towards the cost of constructing a water work, whether such work is constructed by such person or by the Minister in terms of section *fifty-seven*.

Subsidies on water works.

(2) Unless the total cost of the said water work and the amount of the subsidy and of any loan under this Chapter to be granted in respect thereof have been separately specified in estimates of expenditure approved by Parliament—

- (a) no subsidy shall be granted in respect of any water work the total cost of which in the opinion of the Minister, is likely to exceed thirty thousand pounds;
- (b) the amount of the subsidy to be granted to any irrigation board or local authority shall not exceed thirty-three and one-third per centum of the cost of the work in respect of which it is granted;
- (c) the amount of the subsidy to be granted to any person or body, other than an irrigation board or a local authority, shall not exceed thirty-three and one third per centum of the cost of the work in respect of which it is granted, or three hundred pounds, whichever amount is the less: Provided that if a group of persons desire to construct a joint water work for the irrigation of land belonging to them and the Minister is of opinion that their purpose may be conveniently and efficiently achieved without the establishment of an

distrik en die daarstelling van 'n besproeiingsraad om bedoelde werk uit te voer, daar behoudens die bepalings van paragraaf (a) aan bedoelde groep persone 'n subsidie van driehonderd pond ten opsigte van elk van daardie persone, maar in die geheel hoogstens drie-en-dertig en 'n derde persent van die koste van daardie werk, toegestaan kan word.

(3) 'n Subsidie word nie ingevolge hierdie artikel aan 'n plaaslike bestuur toegestaan nie, tensy die Administrateur van die provinsie waarin daardie plaaslike bestuur gestig is die toekenning van bedoelde subsidie aanbeveel het, en 'n Administrateur doen nie so 'n aanbeveling nie tensy hy oortuig is dat so 'n plaaslike bestuur om finansiële redes nie in staat sal wees om die waterwerk ten opsigte waarvan die subsidie nodig is, te bou nie tensy daardie subsidie aan bedoelde plaaslike bestuur toegestaan word.

(4) 'n Raad of ander liggaam wat kragtens 'n spesiale wet ingestel is en ingevolge daardie wet gemagtig en verplig is om bevoegdhede uit te oefen en pligte te verrig wat aan besproeiingsrade verleen en opgedra is of mag word, en om waterwerke aangewend vir die besproeiing van grond binne die regsgebied van bedoelde raad of liggaam te beheer en te onderhou, en om die water van daardie werke aan sodanige grond te distribueer, word by die toepassing van hierdie Hoofstuk geag 'n besproeiingsraad te wees, en die bepalings van paragrafe (a) en (b) van sub-artikel (8) en sub-artikels (9) en (10) van artikel drie-en-sestig en artikels drie-en-negentig en vyf-en-negentig is *mutatis mutandis* ten opsigte van so 'n raad of liggaam van toepassing asof so 'n raad of liggaam 'n besproeiingsraad was.

(5) Geen deel van 'n subsidie ingevolge hierdie artikel toegeken, mag aan 'n ander doel as die uitvoering van die waterwerk ten opsigte waarvan dit toegeken word, bestee word nie.

(6) Iemand aan wie 'n subsidie ingevolge hierdie artikel toegestaan is, word nie verplig om enige deel daarvan terug te betaal nie.

Toepassing van Wet op lenings en subsidies tevore toegestaan.

163. 'n Besproeiingslening deur die Goewerneur-generaal toegestaan en 'n besproeiingssubsidie deur die Minister toegestaan ingevolge enige wet voor die inwerkingtreding van hierdie Wet, word geag ingevolge hierdie Hoofstuk toegestaan te gewees het en die bepalings van hierdie Hoofstuk is op so 'n lening of subsidie van toepassing.

Minister kan regulasies uitvaardig betreffende besproeiingslenings en subsidies.

164. Die Minister kan regulasies uitvaardig betreffende—

- (a) die aansoekvorm wat gebruik moet word wanneer om 'n besproeiingslening of 'n subsidie aansoek gedoen word;
- (b) die vorm wat gebruik moet word by die waardering van eiendom wat as sekuriteit vir 'n besproeiingslening aangebied word;
- (c) die vorm en die aard van die planne, ramings en ander dokumente wat 'n aansoek om 'n besproeiingslening of 'n subsidie moet vergesel;
- (d) die wyse waarop 'n besproeiingsraad andersins as ingevolge hierdie Hoofstuk lenings kan aangaan;
- (e) oor die algemeen enige ander aangeleenthede wat hy nodig of dienstig ag om voor te skryf vir die uitvoering van die oogmerke van hierdie Hoofstuk.

HOOFSTUK X

ALGEMENE EN GEMENGDE BEPALINGS.

Oordrag van Minister se bevoegdhede.

165. Die Minister kan by kennisgewing in die *Staatskoerant* enige van die bevoegdhede deur hierdie Wet aan hom verleen, aan die direkteur of 'n ander amptenaar in die departement oordra.

Reg om grond te betree.

166. (1) Iemand wat skriftelik deur die Minister of deur die direkteur daartoe gemagtig is, kan na redelike kennisgewing aan die eienaar of okkuperder van enige grond, daardie grond met die nodige manne, diere, voertuie, toestelle en instrumente betree en aldaar al die handeling verrig wat nodig mag wees ten einde navrae te doen of ondersoek in te stel om te bepaal of die bou van 'n waterwerk uitvoerbaar is of ten einde enige konstruksiekampe of ander voorlopige werke op te rig wat die Minister in verband met die bou van 'n beoogde waterwerk nodig ag of ten einde te bepaal of daar aan 'n bepaling van hierdie Wet of 'n daaronder uitgevaardigde regulasie of opgelegde voorwaarde voldoen word: Met dien verstande dat—

irrigation district and the constitution of an irrigation board to carry out the said work, such group of persons may, subject to the provisions of paragraph (a), be granted a subsidy not exceeding three hundred pounds in respect of each such person, but not exceeding in the aggregate thirty-three and one-third per centum of the cost of such work.

(3) A subsidy shall not be granted under this section to a local authority unless the Administrator of the province within which such local authority has been established, has recommended the grant of such subsidy, and an Administrator shall not so recommend unless he is satisfied that such local authority would not, for financial reasons, be able to construct the water work in respect of which the subsidy is required if such subsidy were not granted to it.

(4) Any board or other body constituted by any special law and empowered and required by such law to exercise such powers and carry out such duties as are or may be conferred and imposed upon irrigation boards and to control and maintain water works used for the irrigation of land within the area of jurisdiction of the board or body aforesaid, and to distribute the water from such works to such land, shall, for the purposes of this Chapter, be deemed to be an irrigation board, and the provisions of paragraphs (a) and (b) of sub-section (8) and sub-sections (9) and (10) of section *sixty-three* and of sections *ninety-three* and *ninety-five* shall *mutatis mutandis* apply in respect of any such board or body, as if such board or body were an irrigation board.

(5) No part of a subsidy granted under this section shall be expended for any purpose other than the carrying out of the water work in respect of which it is granted.

(6) A person to whom a subsidy is granted under this section shall not be required to repay any portion thereof.

163. Any irrigation loan made by the Governor-General and any irrigation subsidy granted by the Minister under any law prior to the commencement of this Act, shall be deemed to have been made under this Chapter and the provisions of this Chapter shall apply in respect of any such loan or subsidy.

Application of Act to loans and subsidies previously granted.

164. The Minister may make regulations relating to—

- (a) the form of application to be used in applying for an irrigation loan or a subsidy;
- (b) the form to be used for the purpose of valuing property offered as security for an irrigation loan;
- (c) the form and nature of the plans, estimates and other documents to accompany an application for an irrigation loan or a subsidy;
- (d) the manner in which an irrigation board may raise loans otherwise than under this Chapter;
- (e) generally any other matters which he considers necessary or expedient to prescribe for the carrying out of the objects of this Chapter.

Minister may make regulations as to irrigation loans and subsidies.

CHAPTER X.

GENERAL AND MISCELLANEOUS.

165. The Minister may by notice in the *Gazette* delegate to the director or any other officer in the department any of the powers conferred upon him by this Act.

Delegation of Minister's powers.

166. (1) Any person authorized thereto in writing by the Minister or by the director may, after reasonable notice to the owner or occupier of any land, enter upon such land with such men, animals, vehicles, appliances and instruments and do all such acts thereon as may be necessary for the purpose of making any enquiries or undertaking any investigations with a view to determining the feasibility of constructing any water work or for the purpose of erecting construction camps or other preliminary works which the Minister may consider necessary in connection with the construction of any contemplated water work, or for the purpose of ascertaining whether any provision of this Act or any regulation made or condition imposed thereunder is being complied with: Provided that—

Right of entry upon land.

- (a) geen gebou of omslote ruimte verbonde aan 'n woning sonder toestemming van die eienaar of okkupeerder daarvan aldus betree mag word nie;
- (b) by die uitoefening van die bevoegdheide by hierdie artikel verleen so min skade as moontlik veroorsaak moet word, en dat vergoeding soos ooreengekom of by ontstentenis van ooreenkoms deur 'n bevoegde hof vasgestel word, vir enige skade, verlies of ongerief aldus veroorsaak, betaal moet word.

(2) Die bepalinge van sub-artikel (1) is *mutatis mutandis* van toepassing met betrekking tot 'n lid van 'n besproeiingsraad of 'n wateraad of iemand wat deur die voorsitter van 'n besproeiingsraad of 'n wateraad skriftelik daartoe gemagtig is.

(3) 'n Lid van 'n waterhof kan enige grond betree ten einde enige inspeksie te doen wat die hof in verband met die verrigting van sy werksaamhede onder hierdie Wet nodig ag.

(4) Iemand wat deur hierdie artikel gemagtigde toegang of die uitoefening van daardeur verleende bevoegdheide verhinder, of 'n persoon wat aldus toegang verkry, opsetlik by die uitoefening van sy bevoegdheide of verrigting van sy pligte ingevolge hierdie Wet of die daarkragtens uitgevaardigde regulasies hinder of belemmer, is aan 'n misdryf skuldig.

Getuienis.

167. (1) 'n Afskrif van die notule van verrigtings by vergaderings van 'n besproeiingsraad of 'n wateraad of 'n komitee van so 'n raad, wat deur die voorsitter van daardie vergadering onderteken heet te wees en onder die handtekening van die dienende voorsitter van daardie raad of komitee as 'n juiste afskrif van die notule van daardie vergadering gesertifiseer is, is in alle howe *prima facie*-getuienis van die verrigtings op daardie vergadering.

(2) Totdat die teendeel bewys word, word elke sodanige vergadering waarvan die notule van die verrigtings aldus onderteken en gesertifiseer is, geag behoorlik belê en gehou te gewees het.

(3) Elke kontrak wat deur 'n besproeiingsraad of 'n wateraad aangegaan is, word geag behoorlik verly te wees indien onderteken deur die voorsitter en deur een of meer lede of die sekretaris van die besproeiingsraad of wateraad, na gelang van die geval, wat by besluit geneem op 'n vergadering van daardie raad daartoe gemagtig is.

(4) 'n Kennisgewing, bevel of ander dokument ingevolge hierdie Wet uitgereik, wat op die gesag van 'n besproeiingsraad of 'n wateraad uitgereik heet te wees, word, totdat die teendeel bewys word, geag op bedoelde gesag uitgereik te gewees het indien deur die sekretaris van sodanige raad onderteken.

Bestelling van kennisgewings en dokumente.

168. (1) 'n Kennisgewing, bevel of ander dokument wat ingevolge hierdie Wet of 'n regulasie (uitgesonderd 'n regulasie kragtens artikel vyf-en-vyftig uitgevaardig) aan iemand bestel moet word, word geag behoorlik bestel te gewees het indien dit aan so iemand persoonlik oorhandig of by sy laaste bekende gewone verblyfplek gelaat of per aangetekende pos daarheen gestuur is of, waar so iemand uit die Unie afwesig is, in die *Staatskoerant* gepubliseer is.

(2) 'n Kennisgewing, bevel of ander dokument wat ingevolge hierdie Wet of 'n regulasie (uitgesonderd 'n regulasie kragtens artikel vyf-en-vyftig uitgevaardig) aan 'n besproeiingsraad of wateraad bestel moet word, word geag behoorlik bestel te gewees het indien dit oorhandig of gelaat is by of per aangetekende pos gestuur is aan die kantoor van die raad of die laaste bekende gewone verblyfplek van die voorsitter of die sekretaris van die raad.

(3) 'n Kennisgewing, bevel of ander dokument wat wettiglik uitgevaardig heet te wees, en wat te goeder trou ingevolge hierdie Wet of 'n regulasie uitgereik word, is geldig ooreenkomstig die bepalinge daarvan ondanks enige gebrek wat betref die vorm daarvan of die bevoegdheid van enige persoon om dit uit te reik of te waarmerk, mits die bevoegdheid daarna aan daardie persoon verleen word.

Vrystelling van plaaslike belastinge van verhoogde waarde van besproeide gronde.

169. (1) Indien die waarde van 'n eiendom onderhewig aan belastinge wat deur 'n afdelingsraad of ander plaaslike bestuur gehef kan word, deur 'n waterwerk gebou en voltooi op 'n datum hoogstens tien jaar voor die datum van inwerkingtreding van hierdie Wet, of na sodanige inwerkingtreding, verhoog is, moet die bedrag waarmee die waarde van bedoelde eiendom aldus verhoog is in elke waarderingslys opgestel vir die aanslag van bedoelde belastinge vermeld word, en iemand wat vir die betaling van daardie belastinge ten opsigte van so 'n eiendom aanspreeklik is, is gedurende 'n tydperk van tien jaar vanaf die

- (a) no such entry shall be made into any building, or upon any enclosed space attached to a dwelling, except with the consent of the occupier thereof;
- (b) as little damage as possible shall be caused in the exercise of the powers granted under this section, and such compensation as may be agreed upon or failing agreement determined by a competent court shall be paid for any damage, loss or inconvenience so caused.

(2) The provisions of sub-section (1) shall *mutatis mutandis* apply in relation to any member of an irrigation board or a water board or a person authorized thereto in writing by the chairman of an irrigation board or a water board.

(3) A member of a water court may enter upon any land for the purpose of making any inspection which it may consider necessary in connection with the performance of its functions under this Act.

(4) Any person who prevents any entry or the exercise of any powers authorized by this section or wilfully obstructs or hinders any person so entering in carrying out such person's powers or duties under this Act or the regulations made thereunder, shall be guilty of an offence.

167. (1) A copy of the minutes of the proceedings of any meeting of an irrigation board or a water board or of a committee of any such board, purporting to be signed by the chairman of that meeting, and certified under the hand of the chairman for the time being of the said board or committee as a correct copy of the minutes of that meeting shall be *prima facie* evidence in all courts of the proceedings of that meeting. Evidence.

(2) Until the contrary is proved every such meeting, of the proceedings of which minutes have been so signed and certified, shall be deemed to have been duly convened and held.

(3) Every contract made by an irrigation board or a water board shall be deemed to be duly executed if signed by the chairman and by one or more members or the secretary of the irrigation board or water board (as the case may be) authorized thereto by resolution passed at a meeting of such board.

(4) A notice, order or other document issued under this Act purporting to be issued on the authority of an irrigation board or a water board shall, until the contrary is proved, be deemed to have been issued on such authority if signed by the secretary of such board.

168. (1) Any notice, order or other document required by this Act or a regulation (other than a regulation made under section *fifty-five*) to be served upon any person, shall be deemed to have been duly served if it has been delivered to such person personally or left at or sent by registered post to his last known ordinary residence or, where such person is absent from the Union, published in the *Gazette*. Service of notices and documents.

(2) A notice, order or other document required by this Act or a regulation (other than a regulation made under section *fifty-five*) to be served upon an irrigation board or a water board, shall be deemed to have been duly served if it has been delivered or left at or sent by registered post to the office of the board or the last known ordinary residence of the chairman or the secretary of the board.

(3) A notice, order or other document which, purporting to be lawfully made, is issued in good faith under this Act or a regulation shall be valid, according to the terms thereof, notwithstanding any want of form or lack of authority on the part of any person to issue or authenticate it, provided the authority be subsequently conferred upon such person.

169. (1) If the value of a property liable to be assessed in respect of rates leviable by a divisional council or other local authority has been enhanced by a water work constructed and completed on a date not more than ten years prior to the date of commencement of this Act or after such commencement, the amount by which the value of the said property has been so enhanced shall be specified in every valuation roll framed for the assessment of the said rates, and a person liable to pay such rates in respect of any such property shall not, during a period of ten years from the date of completion of such water work, Exemption from local rates of enhanced value of irrigated lands.

datum van voltooiing van daardie waterwerk nie vir die betaling van bedoelde belasting op daardie verhoogde waarde aanspreeklik nie, en die bepaling van enige wet betreffende besware teen die waardering van eiendom vir die doeleindes van so 'n belasting is op besware teen die raming van bedoelde verhoogde waarde van toepassing: Met dien verstande dat die bepaling van hierdie sub-artikel nie ten opsigte van belasting ingevolge artikel *honderd-en-twintig* deur 'n waterraad gehef, van toepassing is nie.

(2) Ondanks die bepaling van enige wet betreffende die belasting van eiendom, is die eiendom van 'n besproeiingsraad of 'n waterraad van belasting vrygestel, behalwe ten opsigte van eiendom wat vir woon- of kantoordeleindes gebruik of deur 'n besproeiingsraad of 'n waterraad aan enige ander persoon verhuur word.

Misdrywe en
strawwe.

170. (1) Iemand wat sonder wettige reg of gesag, waarvan die bewyslas op hom rus—

- (a) 'n waterwerk bou, verander, vergroot of versper of 'n peilmerk, baken of ander struktuur of toestel in verband met so 'n werk opgerig of gemaak, vernietig, skend of beweeg;
- (b) hom bemoei met die water wat in 'n waterwerk bevat is of daarin of daaruit vloei of die vloei daarvan verander, of hom met die water van 'n openbare stroom bemoei of die vloei daarvan verander, of hom met die distribusie van sodanige water bemoei, of water neem in groter hoeveelhede as wat hy geregtig is om te neem of op 'n tydstip wanneer hy nie daarop geregtig is nie, of water gebruik op 'n wyse wat met hierdie Wet of daarkragtens uitgevaardigde regulasies in stryd is;
- (c) terwyl hy 'n waterwerk gebruik of vir die instandhouding daarvan aanspreeklik is, water uit daardie werk verspil of nie behoorlike voorsorg neem om die verspilling daarvan te voorkom nie, of versuim om daardie werk behoorlik in stand te hou en te herstel;
- (d) indien hy 'n eienaar is van grond ten opsigte waarvan kragtens paragraaf (a) van sub-artikel (1) van artikel *ses-en-sestig*, paragraaf (a) van sub-artikel (1) van artikel *negentig*, sub-artikel (2) van artikel *honderd-en-sewentien* of sub-artikel (1) van artikel *honderd-en-twintig*, belasting of vorderings gehef is, water uit die waterwerke in verband waarmee daardie belasting of vorderings gehef is, neem of gebruik nadat die voorsiening van water uit daardie werke aan bedoelde grond deur die Minister of, na gelang van die geval, deur die betrokke besproeiingsraad of waterraad gestaak is weens versuim deur daardie eienaar om bedoelde belasting of vorderings te betaal;
- (e) openbare water verspil;
- (f) sonder skriftelike vergunning van die Minister 'n in paragraaf (a) van sub-artikel (1) van artikel *een-en-sestig* bedoelde werk verander of hom op enigerlei wyse daarmee bemoei;
- (g) medepligtig is aan 'n handeling of versuim in voorgaande paragrafe genoem, of dit toelaat;
- (h) 'n bepaling van paragraaf (c) van sub-artikel (1) van artikel *twee-en-sestig* of 'n voorwaarde bedoel in paragraaf (a) van sub-artikel (3) van artikel *een-en-sestig* oortree of toelaat dat dit oortree word of versuim om daaraan te voldoen,

is aan 'n misdryf skuldig en strafbaar, in die geval van 'n eerste skuldigbevinding, met 'n boete van minstens tien pond en hoogstens honderd pond of met gevangenisstraf vir 'n tydperk van hoogstens een maand of met daardie boete sowel as daardie gevangenisstraf, en, in die geval van 'n tweede of latere skuldigbevinding, met 'n boete van minstens vyftig pond en hoogstens tweehonderd pond of met gevangenisstraf vir 'n tydperk van minstens drie maande en hoogstens ses maande, of met daardie boete sowel as daardie gevangenisstraf.

(2) Iemand wat skuldig bevind word weens 'n misdryf ingevolge artikel *een-en-twintig*, *twee-en-twintig* of *drie-en-twintig* is strafbaar, in die geval van 'n eerste skuldigbevinding, met 'n boete van hoogstens vyfhonderd pond of met gevangenisstraf vir 'n tydperk van hoogstens ses maande of met daardie boete sowel as daardie gevangenisstraf, en, in die geval van 'n tweede of latere skuldigbevinding, met 'n boete van minstens tweehonderd-en-vyftig pond of met gevangenisstraf vir 'n tydperk van minstens ses maande of met daardie boete sowel as daardie gevangenisstraf.

(3) Iemand wat 'n regulasie ingevolge hierdie Wet uitgevaardig, of 'n verordening ingevolge hierdie Wet deur 'n

be liable to pay such rates on that enhanced value, and the provisions of any law relating to objections to the valuation of property for the purposes of any such rates shall apply to objections to the estimate of the said enhanced value: Provided that the provisions of this sub-section shall not apply in respect of rates levied by a water board in terms of section *one hundred and twenty*.

(2) Notwithstanding the provisions of any law relative to the rating of property, the property of an irrigation board or a water board shall be exempt from rates, save in respect of any property which is occupied for residential or office purposes or which is leased by an irrigation board or a water board to any other person.

170. (1) Any person who, without lawful right or authority, the proof whereof shall lie upon him— Offences and penalties.

- (a) constructs, alters, enlarges or obstructs a water work, or destroys, defaces or moves any level mark, beacon or other structure or appliance erected or made in connection with any such work;
- (b) interferes with, or alters the flow of the water contained in or flowing in or from a water work, or interferes with, or alters the flow of the water of a public stream, or interferes with the distribution of any such water, or takes water in excess of the quantity he is entitled to take or at a time when he is not entitled to do so, or uses water in a manner contrary to this Act or regulations made thereunder;
- (c) while using or being liable for the maintenance of a water work, wastes or does not take due precaution to prevent waste of water from any such work, or fails to maintain the work and keep it in repair;
- (d) being an owner of land in respect of which rates or charges have been assessed in terms of paragraph (a) of sub-section (1) of section *sixty-six*, paragraph (a) of sub-section (1) of section *ninety*, sub-section (2) of section *one hundred and seventeen* or sub-section (1) of section *one hundred and twenty*, takes or uses water from the water works in connection with which such rates or charges have been assessed, after the supply of water from such works to the said land has been stopped by the Minister or, as the case may be, by the irrigation board or water board concerned by reason of a default on the part of the said owner to pay any such rates or charges;
- (e) wastes public water;
- (f) without the written permission of the Minister, alters or in any way interferes with any work referred to in paragraph (a) of sub-section (1) of section *sixty-one*;
- (g) aids or abets or permits any act or default referred to in any of the preceding paragraphs;
- (h) contravenes or permits the contravention of or fails to comply with any provision of paragraph (c) of sub-section (1) of section *sixty-two* or any condition referred to in paragraph (a) of sub-section (3) of section *sixty-one*,

shall be guilty of an offence and liable, in the case of a first conviction, to a fine of not less than ten pounds and not more than one hundred pounds or to imprisonment for a period not exceeding one month or to both such fine and such imprisonment, and, in the case of a second or subsequent conviction, to a fine of not less than fifty pounds and not more than two hundred pounds or to imprisonment for a period of not less than three months and not exceeding six months, or to both such fine and such imprisonment.

(2) Any person who is convicted of an offence under section *twenty-one*, *twenty-two* or *twenty-three* shall be liable, in the case of a first conviction, to a fine not exceeding five hundred pounds or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment, and, in the case of a second or subsequent conviction, to a fine of not less than two hundred and fifty pounds or to imprisonment for a period of not less than six months or to both such fine and such imprisonment.

(3) Any person who contravenes or fails to comply with any regulation made under this Act or any by-law made under this

besproeiingsraad of 'n waterraad uitgevaardig, oortree of versuim om daaraan te voldoen, of 'n misdryf teen die bepalings van hierdie Wet begaan waarvoor geen boete uitdruklik voorgeskryf is nie, is by skuldigbevinding strafbaar met 'n boete van hoogstens vyf-en-twintig pond of met gevangenisstraf vir 'n tydperk van hoogstens een maand, of met daardie boete sowel as daardie gevangenisstraf.

(4) Iemand wat weens 'n misdryf ingevolge hierdie Wet skuldig bevind is, en wat na die skuldigbevinding voortgaan met die gedraglyn wat daardie misdryf uitgemaak het, is aan 'n voortdurende misdryf skuldig en by skuldigbevinding strafbaar, in die geval van 'n in sub-artikel (2) bedoelde misdryf, met 'n boete van hoogstens veertig pond, en, in die geval van enige ander misdryf, met 'n boete van hoogstens tien pond, ten opsigte van elke dag waarop hy aldus daarmee voortgaan of voortgegaan het.

(5) Indien by verrigtings ingevolge paragraaf (b) van sub-artikel (1) beweer word dat—

(a) iemand hom bemoei het met die distribusie van water wat in 'n waterwerk of 'n openbare stroom bevat is of daarin of daaruit vloei, of meer water geneem het as wat hy geregtig is om te neem of water geneem het op 'n tydstop waarop hy nie geregtig was om dit te neem nie, en bewys word dat bemoeiing met bedoelde distribusie plaasgevind het, of dat meer water geneem is as wat bedoelde persoon geregtig was om te neem of dat daardie water geneem is op 'n tydstop waarop bedoelde persoon nie geregtig was om dit te neem nie, word bedoelde persoon geag, tot dat die teendeel bewys word, hom met die distribusie van daardie water te bemoei het, of meer water te geneem het as wat hy geregtig was om te neem of dit te geneem het op 'n tydstop toe hy nie geregtig was om dit te neem nie;

(b) iemand water geneem het op 'n tydstop waarop hy nie geregtig was om daardie water te neem nie, en bewys word dat bedoelde water geloop het of gevind is op grond of geloop het of gevind is in enige dam wat aan bedoelde persoon behoort, rus die las om te bewys dat daardie persoon op bedoelde water geregtig was of dat dit sonder sy wete aldus geneem of gebruik was, op daardie persoon.

(6) 'n Magistraatshof is bevoeg om enige deur hierdie Wet voorgeskrewe straf op te lê.

Toekenning van skadevergoeding teen 'n beskuldigde by 'n strafgeding.

171. (1) Wanneer iemand weens 'n misdryf ingevolge hierdie Wet of die regulasies daarkragtens of 'n verordening deur 'n besproeiingsraad of 'n waterraad uitgevaardig, skuldig bevind word, en dit blyk dat so iemand deur daardie misdryf aan 'n besproeiingsraad, waterraad of eienaar verlies of skade berokken het, kan die hof in dieselfde geding op skriftelike versoek van die betrokke raad of eienaar en in teenwoordigheid van die veroordeelde, op staande voet en sonder pleitstukke na die bedrag van die aldus berokkende verlies of skade ondersoek instel.

(2) By bewys van bedoelde bedrag, gee die hof vonnis daarvoor ten gunste van die betrokke besproeiingsraad, waterraad of eienaar en teen die veroordeelde, en so 'n vonnis is van dieselfde krag en geldigheid en word op dieselfde wyse ten uitvoer gelê asof dit in 'n siviele geding behoorlik voor daardie hof ingestel, gegee was: Met dien verstande dat 'n vonnis ingevolge hierdie artikel nie vir 'n groter bedrag as tweehonderd pond gegee word nie.

Gebruik van water op geproklameerde myngrond.

172. (1) Behoudens die bepalings van sub-artikels (2) en (3), word geen bepaling van hierdie Wet so uitgelê dat dit aan enige bevoegdhede of jurisdiksie aan die Minister van Mynwese of 'n mynkommissaris verleen kragtens een of ander wet met betrekking tot die ontginning van edele of onedele metale of edelgesteentes of van aardolie, soos in artikel een van die Wet op Aardolie, 1942 (Wet No. 46 van 1942), omskryf, of van voorgeskrewe of beperkte materiaal soos in artikel een van die Wet op Atoomkrag, 1948 (Wet No. 35 van 1948), omskryf, afbreuk doen nie, en word geen grond wat kragtens of vir die doeleindes van so 'n wet geproklameer is of onder myntitel volgens so 'n wet gehou word, in 'n besproeiingsdistrik ingesluit nie, behalwe met toestemming van die Minister van Mynwese en op die voorwaardes wat hy bepaal, en indien grond in 'n besproeiingsdistrik kragtens en vir die toepassing van so 'n wet geproklameer word, hou soveel van enige openbare stroom in daardie besproeiingsdistrik as wat binne die aldus geprokla-

Act by an irrigation board or a water board, or commits any offence against the provisions of this Act for which no penalty is expressly provided, shall be liable on conviction to a fine not exceeding twenty-five pounds or to imprisonment for a period not exceeding one month or to both such fine and such imprisonment.

(4) Any person who has been convicted of any offence under this Act, and who after such conviction persists in the course of conduct which constituted the said offence, shall be guilty of a continuing offence and liable on conviction, in the case of an offence referred to in sub-section (2), to a fine not exceeding forty pounds, and, in the case of any other offence, to a fine not exceeding ten pounds, in respect of every day that he so persists or has so persisted.

(5) If in any proceedings under paragraph (b) of sub-section (1) in which it is alleged that—

- (a) a person has interfered with the distribution of water contained or flowing in or from a water work or a public stream, or has taken more water than he is entitled to or has taken water at a time when he was not entitled to take it, it is proved that the said distribution was interfered with or that more water was taken than the said person was entitled to, or that the said water was taken at a time when such person was not entitled to take it, the said person shall be presumed, until the contrary is proved, to have interfered with the distribution of the said water or to have taken more water than he was entitled to or to have taken it at a time when he was not entitled to take it;
- (b) a person has taken water at a time when he was not entitled to take such water, it is proved that such water was running on to or found on any land or running into or found in any dam belonging to such person, the onus of proving that the said person was entitled to such water or that it was so taken or used without his knowledge shall be upon that person.

(6) A magistrate's court shall have power to impose any penalty prescribed by this Act.

171. (1) Whenever any person is convicted of an offence under this Act or the regulations thereunder or a by-law made by an irrigation board or a water board and it appears that such person has by that offence caused loss or damage to any irrigation board, water board or owner, the court may in the same proceedings at the written request of the board or owner concerned, and in the presence of the convicted person, inquire summarily and without pleadings into the amount of the loss or damage so caused.

Award of damages against an accused in criminal proceedings.

(2) Upon proof of such amount, the court shall give judgment therefor in favour of the irrigation board, water board or owner concerned and against the convicted person, and such judgment shall be of the same force and effect and be executable in the same manner as if it had been given in a civil action duly instituted before such court: Provided that judgment shall not be given under this section for a sum exceeding two hundred pounds.

172. (1) Subject to the provisions of sub-sections (2) and (3), nothing in this Act contained shall be construed as derogating from any powers or jurisdiction conferred upon the Minister of Mines or any mining commissioner by any law relating to mining for precious or base metals or precious stones or for natural oil as defined in section one of the Natural Oil Act, 1942 (Act No. 46 of 1942), or for prescribed or restricted materials as defined in section one of the Atomic Energy Act, 1948 (Act No. 35 of 1948), nor shall any land proclaimed under or for the purpose of any such law or held under mining title in terms of such law, be included in an irrigation district save with the consent of the Minister of Mines and under such conditions as he may determine, and if land in an irrigation district be proclaimed under and for the purpose of any such law, so much of any public stream within that irrigation district as is within the area so proclaimed, shall cease to be subject to

Use of water on proclaimed mining land.

meerde gebied is, op om onder die gesag van die besproeiingsraad te wees, tensy die Minister van Mynwese anders bepaal: Met dien verstande dat die bepalings van hierdie artikel nie so uitgelê word dat dit—

- (a) aan die Minister van Mynwese magtiging verleen om water van 'n openbare stroom vir landboudoeleindes te gebruik of toe te laat dat dit aldus gebruik word op aldus geproklameerde grond wat nie oewergrond aan daardie stroom is nie, of om enige persoon toe te laat om meer as 'n redelike aandeel van daardie water vir sodanige doeleindes op grond wat oewergrond aan bedoelde stroom is, te gebruik nie;
- (b) iemand wat tot die gebruik van openbare water geregtig is, belet om na skriftelike kennisgewing aan die Minister van Mynwese by 'n waterhof om die verdeling van bedoelde water tussen geproklameerde en ongeproklameerde grond, of om die verlening van 'n serwituut kragtens hierdie Wet oor aldus geproklameerde grond vir die voordeel van 'n eienaar van oewergrond, aansoek te doen nie;
- (c) 'n eienaar van geproklameerde oewergrond belet om by deproklamasie van sodanige grond by 'n waterhof om herverdeling van die water van bedoelde stroom aansoek te doen nie;
- (d) 'n eienaar van oewergrond wat gedeproklameer is, belet om 'n redelike aandeel van sodanige water vir landboudoeleindes te gebruik, of so 'n eienaar toelaat om na deproklamasie van sodanige grond meer as sodanige redelike aandeel te gebruik nie.

(2) Iemand wat geraak word deur 'n beslissing gegee of handeling verrig deur die Minister van Mynwese ingevolge sub-artikel (1), kan by 'n waterhof om verligting aansoek doen, en die waterhof kan op so 'n aansoek die bevel uitvaardig wat hy billik ag.

(3) Ondanks andersluidende wetsbepalings, mag niemand binne 'n gebied wat kragtens artikel *nege-en-vyftig* tot 'n Staatswaterbeheergebied verklaar is, water uitneem of verdeel nie, dan alleen ooreenkomstig die bepalings van hierdie Wet.

Wettiging van sekere handelinge en regte van munisipaliteite in Oranje-Vrystaat.

173. Enige handeling wat verrig is of reg wat heet verkry te gewees het voor die inwerkingtreding van die Besproeiings-Wysigingswet, 1934 (Wet No. 46 van 1934), deur die besturende liggaam van enige munisipale instelling in die provinsie Oranje-Vrystaat, ooreenkomstig die bepalings van 'n wet of ordonnansie wat met 'n bepaling van hierdie Wet in stryd of onbestaanbaar is, word geag wettiglik verrig of verkry te gewees het en word hierby geldig verklaar.

Toepassing van Wet met betrekking tot sekere grond in Suidwes-Afrika.

174. (1) Die bepalings van hierdie Wet is van toepassing met betrekking tot grond in die gebied Suidwes-Afrika wat, indien dit binne die Unie was, ingevolge hierdie Wet oewergrond aan die Oranjerivier sou gewees het, en sodanige grond word by die toepassing van die bepalings van hierdie Wet geag deel van die provinsie die Kaap die Goeie Hoop uit te maak.

(2) By die toepassing van sub-artikel (1) word die Oranjerivier geag 'n grens te wees van enige grond in bedoelde gebied wat aan die oewer van daardie rivier geleë is.

Spesiale voorbehoud betreffende onteiening van water, ens., kragtens spoorwegonteieningswette.

175. Die bepalings van hierdie Wet word nie so uitgelê dat dit aan bevoegdhede verleen kragtens een of ander wet tot reëling van die onteiening van grond vir Staatspoorweë of -hawens afbreuk doen nie, behalwe dat voordat enige bevoegdhede ten opsigte van onteiening van regte op water aan die Suid-Afrikaanse Spoorweg- en Hawensadministrasie verleen, uitgeoefen word, die toestemming van die Minister verkry moet word.

Vrystelling van natuurellegebiede van sekere bepalings van hierdie Wet.

176. Die bepalings van Hoofstukke III, VI, VII en IX is nie van toepassing nie ten opsigte van enige gebied wat ingevolge die bepalings van die Natuurelletrust en -grond Wet, 1936 (Wet No. 18 van 1936), 'n afgesonderde natuurellegebied of 'n oopgestelde gebied is en waarvan die Suid-Afrikaanse Natuurelletrust, ingestel deur artikel vier van daardie Wet, of 'n natuurel die geregistreerde eienaar volgens daardie Wet is, behalwe vir sover die Goewerneur-generaal by proklamasie in die *Staatskoerant* verklaar het dat daardie bepalings op so 'n gebied van toepassing is.

the jurisdiction of the irrigation board unless the Minister of Mines otherwise determines: Provided that nothing contained in this section shall be construed as—

- (a) entitling the Minister of Mines to use or permit the use of water of a public stream for agricultural purposes on land so proclaimed which is not riparian to such stream, or to permit any person to use more than a reasonable share of such water for those purposes on land riparian to such stream;
- (b) preventing any person entitled to the use of public water from making application to a water court after notice in writing to the Minister of Mines for the apportionment of such water between proclaimed and unproclaimed land or the granting of any servitude under this Act upon any land so proclaimed for the benefit of any owner of riparian land;
- (c) preventing any owner of proclaimed riparian land from making application to a water court for a re-apportionment of the water of such stream upon deproclamation of such land;
- (d) preventing any owner of deproclaimed riparian land from using a reasonable share of such water for agricultural purposes or entitling such owner to use more than such reasonable share after deproclamation of such land.

(2) Any person affected by any decision given or action taken by the Minister of Mines in terms of sub-section (1) may apply to a water court for relief, and the water court may make such order on the application as it may consider equitable.

(3) Notwithstanding anything contained in any law, no person shall abstract or distribute water within an area which has under section *fifty-nine* been declared to be a Government water control area, except in accordance with the provisions of this Act.

173. Any act performed or right purporting to have been acquired prior to the commencement of the Irrigation Amendment Act, 1934 (Act No. 46 of 1934), by the governing body of any municipal institution in the province of the Orange Free State in accordance with the provisions of any law or ordinance in conflict or inconsistent with any provision of this Act, shall be deemed to have been lawfully performed or acquired and is hereby validated.

Validation of certain acts and rights of municipalities in Orange Free State.

174. (1) The provisions of this Act shall apply in relation to any land in the territory of South-West Africa which if it were within the Union would have been riparian to the Orange River in terms of this Act, and such land shall for the purposes of the application of the provisions of this Act be deemed to form part of the province of the Cape of Good Hope.

Application of Act in relation to certain land in South-West Africa.

(2) For the purposes of sub-section (1) the Orange River shall be deemed to form a boundary of any land in the said territory which is situated on the bank of that River.

175. Nothing in this Act contained shall be construed as derogating from any powers granted under any law regulating expropriation of land for Government railways or harbours, save that before any powers conferred upon the South African Railways and Harbours Administration in respect of expropriation of rights to water are exercised, the consent of the Minister shall be obtained.

Special savings as to expropriation of water, etc., under railway expropriation laws.

176. The provisions of Chapters III, VI, VII and IX shall not apply in respect of any area which is a scheduled native area or a released area in terms of the Native Trust and Land Act, 1936 (Act No. 18 of 1936), and of which the South African Native Trust constituted by section *four* of the said Act or a native is the registered owner in terms of that Act, except in so far as the Governor-General has by proclamation in the *Gazette* declared that those provisions shall apply to any such area.

Exemption of Native areas from certain provisions of this Act.

Toepassing van sekere bepalinge van artikel 63 ten opsigte van sekere gebiede.

177. Die Minister kan by kennisgewing in die *Staatskoerant* die bepalinge van paragrawe (a) en (b) van sub-artikel (8) en sub-artikels (9) en (10) van artikel *drie-en-sestig* toepas op enige in die kennisgewing omskrewe gebied wat volgens sy oordeel geraak word of waarskynlik geraak sal word deur 'n waterwerk in verband waarmee te eniger tyd, hetsy voor of na die inwerking-treding van hierdie Wet, 'n lening of subsidie uit openbare fondse toegestaan is, en daarop is bedoelde bepalinge *mutatis mutandis* van toepassing asof bedoelde gebied 'n Staatswater-beheergebied was en asof bedoelde waterwerk 'n Staatswater-werk was.

Uitbring van stemme van lede van besproeiings- en waterrade en adviserende komitees.

178. 'n Lid van 'n besproeiingsraad of 'n waterraad, of 'n lid van 'n ingevolge artikel *agt-en-sestig* aangestelde adviserende komitee, is verplig om ten opsigte van enige saak wat deur so 'n besproeiingsraad, waterraad of adviserende komitee tot stemming gebring word, sy stem uit te bring.

Oorlegpleging met Tesourie.

179. (1) Geen goedkeuring word ten opsigte van enige van onderstaande aangeleenthede verleen nie, dan alleen na oorleg-pleging tussen die direkteur en die Tesourie, te wete—

- (a) die bedrag van vergoeding wat aan 'n in sub-artikel (3) van artikel *agtien* bedoelde laer oewerecienaar, of aan 'n in sub-artikel (1) van artikel *honderd ses-en-sestig* bedoelde eienaar of okkupeerder, betaal moet word;
- (b) die bedrag wat van 'n in paragraaf (b) van sub-artikel (4) van artikel *twee-en-sestig* bedoelde persoon verhaal moet word;
- (c) die in paragraaf (a) van sub-artikel (1) van artikel *nege-en-sestig* of sub-artikel (5) van artikel *honderd een-en-twintig* bedoelde bedinge en voorwaardes;
- (d) die in sub-artikel (3) van artikel *honderd vyf-en-vyftig* bedoelde ander sekuriteit as die belastinge of vorderings wat deur 'n besproeiingsraad gehef kan word; of
- (e) die in artikel *honderd een-en-sestig* bedoelde vermindering van betalings ten opsigte van 'n besproeiings-lening oor 'n tydperk van hoogstens vyftien jaar.

(2) Die bepalinge van sub-artikel (1) word nie so uitgelê nie dat dit aan enige regulasies van tyd tot tyd deur die Goewerneur-generaal uitgevaardig kragtens artikel *een-en-sestig* van die Skatkis- en Ouditwet, 1956, afbreuk doen nie.

(3) In hierdie artikel beteken „Tesourie” 'n amptenaar in die Departement van Finansies vir die doel deur die Minister van Finansies aangewys.

Toepassing van Wet op Suidwes-Afrika.

180. Die Goewerneur-generaal kan, by proklamasie in die *Staatskoerant*, die bepalinge van hierdie Wet op die gebied Suidwes-Afrika of enige gebied binne daardie gebied, toepas.

Herroeping van Wette en voor-behoude.

181. (1) Die wette genoem in die Bylae by hierdie Wet word hierby herroep vir sover in die derde kolom van daardie Bylae uiteengesit.

(2) Enige proklamasie, kennisgewing, reël, regulasie of verordening kragtens so 'n wet uitgevaardig of uitgereik en enige bevel uitgevaardig of vasstelling gedoen of beslissing gegee of ander handeling verrig kragtens die bepalinge van so 'n wet, word geag kragtens die ooreenstemmende bepalinge van hierdie Wet uitgevaardig, uitgereik, gedoen, gegee of verrig te gewees het.

(3) Die volgende bepalinge geld in verband met enige aansoek by 'n waterhof kragtens die „Besproeiings- en Waterbewarings-wet, 1912” (Wet No. 8 van 1912), wat op die datum van in-werkingtreding van hierdie Wet nog nie afgehandel was nie, te wete—

- (a) indien op daardie datum reeds met die verhoor van die aansoek begin was, word in verband met die aansoek in alle opsigte gehandel asof hierdie Wet nie aangeneem was nie; of
- (b) indien op daardie datum nog nie met die verhoor van die aansoek begin was nie, verval die aansoek, maar sonder afbreuk aan die betrokke applikant se reg om 'n dergelike aansoek by die gepaste waterhof ingevolge hierdie Wet in te dien, en waar so 'n aansoek binne drie maande na die inwerkingtreding van hierdie Wet gedoen word, moet enige koste redelikerwys deur enigiemand aangegaan in verband met die aansoek wat aldus verval het, soos die bedoelde gepaste waterhof bepaal, deur die Minister aan so iemand terugbetaal word uit gelde wat die Parlement vir die doel bewillig het.

Kort titel.

182. Hierdie Wet heet die Waterwet, 1956.

177. The Minister may by notice in the *Gazette* apply the provisions of paragraphs (a) and (b) of sub-section (8) and sub-sections (9) and (10) of section *sixty-three* to any area defined in the notice which in his opinion is or is likely to be affected by any water work in connection with which any loan or subsidy has at any time either before or after the commencement of this Act been granted out of public funds, and thereupon the said provisions shall *mutatis mutandis* apply as if the said area were a Government water control area and as if the said water work were a Government water work.

Application of certain provisions of section 63 in respect of certain areas.

178. Any member of an irrigation board or water board, or any member of an advisory committee appointed under section *sixty-eight*, shall exercise his vote in respect of any matter which is put to the vote by such irrigation board, water board or advisory committee.

Exercising of votes of members of irrigation and water boards and advisory committees.

179. (1) No approval shall be granted in respect of any of the following matters, except after consultation between the director and the Treasury, namely—

Consultation with Treasury.

- (a) the amount of compensation to be paid to a lower riparian owner referred to in sub-section (3) of section *eighteen*, or to an owner or occupier referred to in sub-section (1) of section *one hundred and sixty-six*;
- (b) the amount to be recovered from any person referred to in paragraph (b) of sub-section (4) of section *sixty-two*;
- (c) the terms and conditions referred to in paragraph (a) of sub-section (1) of section *sixty-nine* or sub-section (5) of section *one hundred and twenty-one*;
- (d) the security, other than the rates or charges leviable by an irrigation board, referred to in sub-section (3) of section *one hundred and fifty-five*; or
- (e) the reduction of payments in respect of an irrigation loan over a period not exceeding fifteen years, referred to in section *one hundred and sixty-one*.

(2) Nothing in sub-section (1) shall be construed as derogating from any regulations made from time to time by the Governor-General in terms of section *sixty-one* of the Exchequer and Audit Act, 1956.

(3) In this section "Treasury" means an officer in the Department of Finance designated for the purpose by the Minister of Finance.

180. The Governor-General may, by proclamation in the *Gazette*, apply the provisions of this Act to the territory of South-West Africa or any area within that territory.

Application of Act to South-West Africa.

181. (1) The laws mentioned in the Schedule to this Act are hereby repealed to the extent set out in the third column of that Schedule.

Repeal of laws and savings.

(2) Any proclamation, notice, rule, regulation or by-law made or issued under any such law and any order or determination made or decision given or other act performed under the provisions of any such law, shall be deemed to have been made, issued, given or performed under the corresponding provisions of this Act.

(3) The following provisions shall apply in connection with any application to a water court under the Irrigation and Conservation of Waters Act, 1912 (Act No. 8 of 1912), which had not been disposed of at the date of commencement of this Act, namely—

- (a) if at the said date the hearing of the application had already commenced, the application shall be dealt with in all respects as if this Act had not been passed; or
- (b) if at the said date the hearing of the application had not yet commenced, the application shall lapse, but without prejudice to the right of the applicant concerned to make a similar application to the appropriate water court under this Act, and if such an application is made within three months after the commencement of this Act, any costs reasonably incurred by any person in connection with the application which has so lapsed, as determined by such appropriate water court, shall be refunded to that person by the Minister out of moneys appropriated by Parliament for the purpose.

182. This Act shall be called the Water Act, 1956.

Short title.

Bylae.

WETTE HERROEP.

No. en jaar van Wet.	Kort titel.	In hoeverre herroep.
Wet No. 8 van 1912	Die „Besproeiings- en Waterbewarings Wet, 1912”.	Soveel as wat nog nie herroep is nie.
Wet No. 32 van 1914	Die „Hartebeestpoort Besproeiingsschema (Krokodilrivier) Wet, 1914”.	Artikel <i>veertien</i> .
Wet No. 26 van 1916	Die „Besproeiings- en Waterbewarings Wet, 1912, Wijzigings Wet, 1916”.	Die geheel.
Wet No. 18 van 1917	Die „Besproeiingswerken (Speciale Leningen) Wet, 1917”.	Die geheel.
Wet No. 38 van 1921	Die „Finansiële Regelings Wet, 1921”.	Artikel <i>veertien</i> .
Wet No. 38 van 1922	Die „Finansiële Regelings Wet, 1922”.	Artikel <i>ses</i> .
Wet No. 35 van 1923	Die „Finansiële Regelings Wet, 1923”.	Artikels <i>een tot vyf en sewe</i> .
Wet No. 2 van 1924	Die „Waterhof Rechters Wet, 1924”.	Artikel <i>twee</i> .
Wet No. 43 van 1925	Die „Finansiële Regelings Wet, 1925”.	Artikel <i>vyftien</i> .
Wet No. 44 van 1926	Die Finansiële Reëlingswet, 1926	Artikels <i>twaalf en dertien</i> .
Wet No. 27 van 1927	Die Finansiële Reëlingswet, 1927	Artikel <i>drie-en-twintig</i> .
Wet No. 21 van 1928	Die Finansiële Reëlingswet, 1928	Artikel <i>twaalf</i> .
Wet No. 34 van 1930	Die Finansiële Reëlingswet, 1930	Artikel <i>elf</i> .
Wet No. 10 van 1932	Marico-Bosveld Besproeiingskema Wet, 1932.	Artikel <i>vier</i> .
Wet No. 25 van 1932	Die Finansiële Reëlingswet, 1932	Artikel <i>agt</i> .
Wet No. 46 van 1934	Die Besproeiings-Wysigingswet, 1934.	Die geheel.
Wet No. 49 van 1935	Die Finansiewet, 1935	Artikel <i>vier</i> .
Wet No. 35 van 1936	Die Finansiewet, 1936	Artikel <i>agt</i> .
Wet No. 33 van 1939	Die Finansiewet, 1939	Artikel <i>een-en-twintig</i> .
Wet No. 10 van 1943	Die Wet op die Olifantsrivierbesproeiingswerke, 1943.	Artikel <i>vyf</i> .
Wet No. 30 van 1944	Die Wysigingswet op Besproeiing, 1944.	Die geheel.
Wet No. 38 van 1946	Die Wysigingswet op Besproeiing, 1946.	Die geheel.
Wet No. 48 van 1947	Die Finansiewet, 1947	Artikel <i>sewe-en-twintig</i> .
Wet No. 34 van 1949	Die Wysigingswet op Besproeiing, 1949.	Die geheel, uitgenome artikel <i>agt</i> .

Schedule.

LAWS REPEALED.

No. and Year of Law.	Short Title.	Extent of Repeal.
Act No. 8 of 1912	The Irrigation and Conservation of Waters Act, 1912.	So much as is unrepealed.
Act No. 32 of 1914	The Hartebeestpoort Irrigation Scheme (Crocodile River) Act, 1914.	Section <i>fourteen</i> .
Act No. 26 of 1916	The Irrigation and Conservation of Waters Act, 1912, Amendment Act, 1916.	The whole.
Act No. 18 of 1917	The Irrigation Works (Special Loans) Act, 1917.	The whole.
Act No. 38 of 1921	The Financial Adjustments Act, 1921.	Section <i>fourteen</i> .
Act No. 38 of 1922	The Financial Adjustments Act, 1922.	Section <i>six</i> .
Act No. 35 of 1923	The Financial Adjustments Act, 1923.	Sections <i>one</i> to <i>five</i> and <i>seven</i> .
Act No. 2 of 1924	The Water Court Judge Act, 1924.	Section <i>two</i> .
Act No. 43 of 1925	The Financial Adjustments Act, 1925.	Section <i>fifteen</i> .
Act No. 44 of 1926	The Financial Adjustments Act, 1926.	Sections <i>twelve</i> and <i>thirteen</i> .
Act No. 27 of 1927	The Financial Adjustments Act, 1927.	Section <i>twenty-three</i> .
Act No. 21 of 1928	The Financial Adjustments Act, 1928.	Section <i>twelve</i> .
Act No. 34 of 1930	The Financial Adjustments Act, 1930.	Section <i>eleven</i> .
Act No. 10 of 1932	The Marico-Bosveld Irrigation Scheme Act, 1932.	Section <i>four</i> .
Act No. 25 of 1932	The Financial Adjustments Act, 1932.	Section <i>eight</i> .
Act No. 46 of 1934	The Irrigation Amendment Act, 1934.	The whole.
Act No. 49 of 1935	The Finance Act, 1935.	Section <i>four</i> .
Act No. 35 of 1936	The Finance Act, 1936.	Section <i>eight</i> .
Act No. 33 of 1939	The Finance Act, 1939.	Section <i>twenty-one</i> .
Act No. 10 of 1943	The Olifants River Irrigation Works Act, 1943.	Section <i>five</i> .
Act No. 30 of 1944	The Irrigation Amendment Act, 1944.	The whole.
Act No. 38 of 1946	The Irrigation Amendment Act, 1946.	The whole.
Act No. 48 of 1947	The Finance Act, 1947.	Section <i>twenty-seven</i> .
Act No. 34 of 1949	The Irrigation Amendment Act, 1949.	The whole, except section <i>eight</i> .