

## CHAPTER 168.

## WATER CONTROL.

## ARRANGEMENT OF SECTIONS.

## SECTION.

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## CHAPTER 168.

## WATER CONTROL.

19 of 1942.  
24 of 1945.

**An Ordinance relating to the Control and use of Natural Water Supplies.**

[1ST JANUARY, 1943.]

Short title.

1. This Ordinance may be cited as the Water Control Ordinance and shall apply to the Protectorate.

Interpretation.

2. In this Ordinance, unless the context otherwise requires—  
“approved scheme” means a scheme approved by the Governor in Council;

“a scheme” means a scheme prepared in accordance with the provisions of section 9;

“domestic purposes” means any purposes other than public, industrial or commercial purposes;

“natural water supply” includes all still, percolating and flowing water;

“water controlled area” means an area declared to be a water controlled area under section 3.

Power to declare a water controlled area.

3. Whenever the Governor in Council shall deem it expedient for the conservation or the better utilisation, distribution or disposal of any natural water supply existing or believed to exist in any area he may by order declare such area to be a water controlled area:

Provided that no order under this section shall be made in respect of any area covered by water habitually used by natives for sacred purposes except with the prior consent of the Tribal Authority having jurisdiction therein.

Extinguishment of rights in water controlled area.

4. With effect from the date of publication of an order declaring a specified area to be a water controlled area, all natural water supplies within such area shall become the property of the Government and the control thereof shall vest in the Governor subject to the provisions of this Ordinance:

Provided that, subject to the provisions of this Ordinance, every person shall have the right to use for domestic purposes any water flowing from or contained in any natural water supply at any place to which access may lawfully be had.

5. (1) Except in exercise of the right to use water for domestic purposes as provided in section 4, no person shall within any water controlled area do any act which shall have the effect of increasing, diminishing, diverting or interfering with any natural water supply in such area or shall utilise such natural water supply in any manner contrary to the provisions of this Ordinance except under and in accordance with a licence granted by the Governor, or if a Water Board has been established for such area, by such Water Board:

Works in  
controlled  
area  
prohibited  
without  
licence.

Provided that, pending the coming into operation of an approved scheme in the area concerned nothing in this section shall be deemed to require any person to obtain a licence for the use of any natural water supply in the same manner and to the same extent as such water supply was being used by such person at the date the area was declared a water controlled area.

(2) The Governor or, where a Water Board has been established for the area, the Water Board may grant such licence subject to such conditions as he or it may specify thereon.

(3) Any person who by himself, his agent or servant wilfully or negligently contravenes the provisions of this section or fails to comply with the terms of any licence issued thereunder shall on summary conviction be liable to a fine not exceeding twenty pounds or to imprisonment for a period not exceeding three months.

6. (1) Where an area has been declared to be a water controlled area the Governor may from time to time by notice in the *Gazette* appoint such persons as he shall think fit, not being less than three in number, to be the Water Board for that area and shall appoint one of such persons to be Chairman of the Board. Every Water Board shall have jurisdiction for the purposes of this Ordinance within the area for which it was appointed.

Power to  
appoint  
Water  
Boards.

(2) A Water Board shall be deemed to be properly constituted for the exercise of its powers and performance of its duties under this Ordinance whenever not less than three members are present at any meeting thereof.

(3) The decision of the majority of the members of the Water Board present at a meeting shall be the decision of the Board and the Chairman shall have both an original and a casting vote.

Water Board may be appointed for one or more areas.

7. Any Water Board established under this Ordinance may be appointed to be the Water Board for any water controlled area or areas in addition to the area for which it was established.

Appointment of Irrigation and Drainage Officers.

8. (1) The Governor may appoint such persons as he thinks fit to be Irrigation and Drainage Officers for the purposes of this Ordinance.

(2) An Irrigation and Drainage Officer may be appointed to be in charge of one or more water controlled areas and when so appointed shall give effect to any instructions issued to him in connection with such area or areas by the Water Board established therefor.

Preparation of scheme.

9. (1) Where an area has been declared to be a water controlled area, the Governor may direct the Water Board established for that area to prepare a scheme for the conservation, utilisation, distribution or disposal of all or any of the natural water supplies therein.

(2) Any such scheme shall contain—

(i) a description of the natural water supplies which it is proposed to safeguard or control;

(ii) a statement of the nature and extent of the control which it is proposed should be exercised over such natural water supplies and the purpose of such control;

(iii) a description, together with such plans as may be necessary, of the principal works and apparatus it is proposed to construct and erect for the purposes of such control and the probable effects of such works and apparatus;

(iv) adequate provision for sufficient supplies of water for all lawful purposes which are not in conflict with the scheme, to all persons affected by the scheme;

(v) estimates of the total capital cost and cost of maintenance of all such works and apparatus together with recommendations as to the sources from which such capital cost and cost of maintenance should be provided, namely, whether wholly or partly from public funds or from the funds of some private body or individual or from the proceeds of any rates or charges which it is proposed should be levied in connection with the scheme;

(vi) where it is recommended that any part of the capital cost or cost of maintenance of any works or apparatus should be provided from the funds of any private body or individual, a statement of any benefits that are expected to accrue under

the scheme to such body or individual and any other reasons for the recommendation; and

(vii) where it is recommended that the whole or any part of the capital cost or cost of maintenance of any works or apparatus should be provided from the proceeds of rates or charges levied in connection with the scheme, a statement of the amount of the rates or charges proposed, upon what basis they shall be levied and the amount of revenue expected to be derived therefrom.

(3) Any person authorised in writing by the Chairman of a Water Board for any water controlled area may at any time after giving reasonable notice in writing where practicable to the owner or person in possession thereof and after producing to such owner or person his written authority enter upon any land within such area for the purpose of making surveys and obtaining any information required in connection with the preparation of a scheme. Such person after having given reasonable notice in writing to all persons who appear to be likely to be affected thereby may do such work and erect such apparatus within the area as may be necessary to achieve such purposes:

Provided that when the achievement of the aforesaid purposes causes damage to any standing crops, or to any fence, wall or structure or interference with any agricultural operation, the Water Board shall award reasonable compensation for such damage.

10. (1) When a scheme has been prepared for any water controlled area copies certified by the Chairman of the Water Board which prepared the scheme shall be deposited at the office of the Minister, the office of the Commissioner of the Province in which such area is situated and at such other places as may be named by the Governor.

Copies of  
scheme to  
be deposited.

(2) Notice that copies of the scheme have been so deposited at such offices and places and are open for inspection shall be published in the *Gazette* and in such other manner as the Governor may direct.

(3) Each copy of the scheme so deposited shall remain open for the inspection of every person desiring to examine it on every day not being a Sunday or public holiday during office hours for such period, not being less than one month, after the date of the first publication of the notice as may be fixed by the Governor.