

## CHAPTER 283

### UNDERGROUND WATER CONTROL 1951-66

This Act came into operation on 27th April, 1953.

#### **Amended by:**

*1959-36*

*1973-50*

*1967/168*

#### **Law Revision Orders**

*The following Law Revision Order or Orders authorized the insertion and removal of pages as the case may be under the Law Revision Act Cap.2 now repealed:*

1978

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#### **Guide to symbols in historical notes:**

- indicates an amendment made by an Act

/ indicates an amendment made by statutory instrument



## **CHAPTER 283**

### **UNDERGROUND WATER CONTROL 1951-66**

#### *Arrangement of Sections*

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**BARBADOS****UNDERGROUND WATER CONTROL  
1951-66**

*An Act to make provision for the control and use of the underground sources of water supply in the Island and other matters connected therewith.*

[Commencement: 27th April, 1953]

**Short title**

1. This Act may be cited as the Underground Water Control Act.

**Interpretation**

2. For the purposes of this Act—

“abstracting” means bringing, or causing to be brought, underground water to the surface by any means;

“adit” means an excavation on a horizontal or inclined plane extending from a well, bore-hole or shaft;

[1951-66]

“bore-hole” means a shaft or bore-hole of any diameter constructed solely by a recognised method of boring;

“Minister” means the Minister responsible for Waterworks;

“owner” includes any person in this Island having possession or charge of any land, the attorney, agent of the owner and a tenant;

“Water Board” means the Water Board constituted under this Act;

“well” includes any bore-hole, adit, shaft or excavation.

[1951-66]

### **Establishment of Water Board**

**3.(1)** There shall be established a Water Board for the purposes of this Act.

(2) The Water Board shall have power to take such measures as are necessary to obtain information and maintain records of the underground sources of water supply in the Island, to control and regulate the use of these sources, and generally to carry out all acts necessary or incidental to these purposes or any of them and to administer this Act.

### **Constitution of Water Board**

**4.(1)** The Water Board shall consist of—

- (a) the Chief Engineer, Waterworks Department who shall be the chairman;
- (b) the Chief Medical Officer;
- (c) a public officer from the Ministry of Agriculture appointed by the Minister responsible for Waterworks after consultation with the Minister responsible for Agriculture; and
- (d) not more than five other persons appointed by the Minister responsible for Waterworks.

(2) Where the Chief Engineer, Waterworks Department, is absent from a meeting of the Board, the members present and constituting a quorum shall elect from among their number a person to act as chairman for that meeting.

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- (3) A member of the Board, other than a member mentioned in paragraph (a), (b) or (c) of subsection (1)—
- (a) shall be appointed for a period not exceeding three years but may be eligible for re-appointment; and
  - (b) may, notwithstanding paragraph (a), at any time resign his office by giving notice in writing to the appointing authority.
- (4) Where a member of the Board is absent from Barbados or is unable to act, the appointing authority may appoint someone to act temporarily in his place.
- (5) Three members of the Board shall form a quorum.
- (6) The Minister responsible for Waterworks may appoint a public officer to be secretary of the Board.
- (7) The appointing authority may by instrument in writing revoke the appointment of a member of the Board and in the case of an appointment under paragraph (c) of section 4 (1) such appointment may also be revoked after consultation with the Minister responsible for Agriculture.

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[1973-50]

### **Notification of wells**

**5.** Every owner of land upon which any completed or partially completed well is situated shall, where such well is used or intended to be used for the purpose of tapping, intercepting or abstracting underground water or for the disposal of sewage water or other waste, furnish to the Board as far as is reasonably practicable all such particulars as the Board may from time to time prescribe or require.

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[1959-36]

**Licence required for construction, etc., of wells**

- 6.(1) No person shall—
- (a) sink any well or deepen an existing well for the purpose of tapping, intercepting or abstracting underground water therefrom or of using it, or causing or suffering it to be used, for the disposal of sewage water or other waste,  
*[1959-36]*
  - (b) convert or substantially alter a well originally sunk or used for any other purpose into a well for the tapping, interception or abstraction of underground water or for the disposal of sewage water or other waste,
  - (c) abstract underground water from any well;
  - (d) carry out any part of any such operations or cause or suffer any of such operations to be carried out in whole or in part,

unless he first obtains a licence from the Board so to do.

(2) Any alteration which increases or is designed to increase or is capable of increasing the horizontal area or the depth of a well or the power utilised to raise water from such well or the discharge of water so raised shall be deemed to be a substantial alteration within the meaning of paragraph (b) of subsection (1).

**Application for licence or permit**

7. Any person wishing to obtain a licence to undertake any of the operations specified in section 6 shall make application to the Board in writing in such form as may be prescribed for the purpose and which shall contain such particulars as the Board may generally or specially require.

**Refusal of a licence by the Board**

8.(1) Subject to subsection (2), but without prejudice to the generality of any other power or discretion conferred on the Board, the Board may refuse a licence if in its opinion the purpose for which the licence is sought may,

notwithstanding any conditions or restrictions which could properly be imposed, prejudice the reasonable conservation, control or use of underground sources of water or be a source of danger to health or lead to contamination of any source of water (including the well in question).

(2) A licence to abstract water shall not be refused in the case of a well which is in existence at the commencement of this Act\* which is then used for the abstraction of underground water, but such licence may be granted subject to such conditions and restrictions as the Board shall determine.

*\*[27th April, 1953.]*

### **Conditions of licences**

9. Any conditions or restrictions may be attached to a licence which in the opinion of the Board are appropriate to prevent any prejudice to the reasonable conservation, control or use of underground sources of water or any danger to health or any danger of contamination to any sources of water (including the well in question).

### **Implied conditions of licence**

10.(1) The following shall be the implied conditions of any licence granted under section 9, namely—

- (a) that the Board or any person deputed by the Board shall have the right to have access to and to inspect the well or works used in connection therewith;
- (b) that the licence may be cancelled by the Board if there is a conviction under section 15 for a contravention of any condition or restrictions contained or implied in the licence;
- (c) that the Board may vary or add to the conditions or restrictions of a licence which would otherwise be open to any of the objections mentioned in section 8.

(2) Every licence shall be valid, unless previously cancelled, for such period as may be specified therein or for such further period as the Board may allow in any special circumstances.

### **Appeal**

**11.(1)** Whenever the Board refuses an application for a licence or grants or is prepared to grant a licence subject to conditions or restrictions or cancels a licence or varies or adds to the conditions or restrictions of a licence the applicant or holder of the licence, as the case may be, may appeal to the Minister.

(2) Every such appeal shall be in writing and shall be forwarded to the Board who shall submit it together with their views thereon to the Minister.

(3) The Minister may grant such application, or vary or revoke the conditions and restrictions imposed therein or may dismiss the appeal. The decision of the Minister shall be final.

(4) Pending the determination of an appeal, nothing in this Act shall be construed as affecting the rights of any person who is an applicant for a licence in respect of any well.

### **Alteration of amount of abstraction of water**

**12.** In addition to the powers reserved to the Board under section 9 or any licence issued thereunder, whenever it is shown to the satisfaction of the Board that owing to drought or natural changes or for the purpose of maintaining the minimum requirement of water for domestic purposes, the abstraction of water authorised to be abstracted by a licensee causes inequity, or causes a shortage of water for any purpose, which in the opinion of the Board should have priority or may seriously prejudice the conservation of the resources affected, the Board may revise or alter the quantity of water which any licensee is authorised to abstract, in such manner as appears to the Board to be equitable and the quantity so allowed shall thereafter be the quantity which the licensee is authorised to abstract.

**Facilities for inspection**

**13.** It shall be the duty of any owner of land upon which any well is situated, or in which any operations have commenced or are proposed to be commenced, at all reasonable hours, to give reasonable facilities to the Board or to any person acting under the general or special orders of the Board with a view to ascertaining such information as it may require.

**Board may declare prohibited areas**

**14.(1)** Where in the opinion of the Board the use of any well in any area for the disposal of sewage water or other waste constitutes or may constitute a danger to health or leads or may lead to the contamination of any source of water whatever, the Board may by order in the *Official Gazette* declare such area to be a prohibited area for the purposes of this Act.

(2) No person shall in any prohibited area make use of any well, or cause or suffer any well to be used, for the disposal of sewage water or other waste:

Provided that where an order is made declaring an area a prohibited area and at the time when the order comes into operation a well is in existence in such area and is being used for the disposal of sewage water or other waste, the provisions of this subsection prohibiting the use of such well for such purposes shall not apply to such well until the expiration of one month after the date of the coming into operation of the order or such later time as the Board may in a particular case allow.

(3) Where any well—

- (a) is used or caused or permitted to be used in contravention of any of the provisions of this section; or
- (b) though not situate in any prohibited area, is used or caused or permitted to be used for the disposal of sewage water or other waste and in the opinion of the Board constitutes or may constitute a danger to health

or leads or may lead to the contamination of any source of water whatever,

then the Board or any person deputed by the Board may, by notice in writing served on the owner of the land on which the well is situate, require such owner to plug or fill such well, or to cause such well to be plugged or filled, and to provide, or caused to be provided, such other means as the Board may approve for the disposal of the sewage water or other waste, within such time as may be specified in the notice or such further time as the Board may allow, and if the owner of the land fails to comply with such requirements, the Board or any persons deputed by the Board may enter on the land with the required servants, labourers or agents and plug or fill such well and do such other works as may be required to provide some other satisfactory method of disposing of the sewage water or other waste.

(4) The expenses of the Board, reasonably incurred in the exercise of the powers conferred by subsection (3) shall be a debt due by the owner of the land in question to the Crown and, without prejudice to any other lawful means of recovery, may be recovered on complaint before a magistrate by the Chief Agricultural Officer or some other person authorised in writing by him.

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[1959-36]

### **Offences**

**15.** Any person who—

- (a) contravenes any of the provisions of section 6 or section 14 or fails to comply with any condition or restriction imposed under any licence;
- (b) wilfully obstructs or interferes with any officer of the Board;
- (c) knowingly makes any untrue statement in any application or form prescribed or required by or under this Act, or in any particulars furnished by him to the Board,

shall be guilty of an offence under this Act and shall be liable on conviction by a court of summary jurisdiction to a fine of five hundred dollars or to imprisonment for six months.

### **Appointment of officers and servants**

**16.** The Board shall appoint such officers and servants for such time and on such conditions as may be approved by the Minister and at such salaries as Parliament shall determine.

### **Regulations**

**17.(1)** The Board may make regulations for giving effect to this Act.

(2) Regulations may provide for—

- (a) all such matters as are required by this Act to be prescribed;
- (b) the regulating of any appeal under this Act and matters incidental to such appeal;
- (c) the forms to be used in this Act;
- (d) generally for the better carrying out of the objects of this Act.