

South Australia

South Eastern Water Conservation and Drainage Act 1992

An Act to provide for the conservation and management of water and the prevention of flooding of rural land in the South East of the State; and for other related purposes.

Contents

Part 1—Preliminary

- 1 Short title
- 3 Interpretation
- 4 Minister may direct vesting of works
- 5 Interaction of this Act with other Acts
- 6 Power of Minister to delegate
- 7 Objects of this Act
- 7A Objects of *River Murray Act 2003*

Part 2—Administration

Division 1—The South Eastern Water Conservation and Drainage Board

- 8 Establishment of the Board
- 9 Membership of the Board
- 10 Board elections
- 11 Entitlement to vote at Board elections
- 12 Presiding member and deputies
- 13 Term of office of Board members
- 14 Allowances
- 15 Procedure at meetings
- 16 Conflict of interest

Division 2—Functions and general powers of Board

- 17 Functions of Board
- 18 Management plan
- 19 General powers of the Board
- 20 Board subject to control of Minister
- 21 Power of Board to delegate
- 22 Staff
- 23 Accounts and audit
- 24 Annual report

Division 3—Functions and duties of the Council

- 25 Functions of the Council

- 26 Council subject to control of Minister
- 27 Council to keep a separate fund
- 28 Power of Council to delegate

Division 4—Advisory committees

- 29 Eight Mile Creek Water Conservation and Drainage Advisory Committee
- 31 Other advisory committees
- 32 Terms and conditions of office
- 33 Procedure for advisory committees

Part 3—Water management works

Division 1—Board and Council water management works

- 34 Board water management works
- 35 Council water management works
- 36 Discharge of stormwater into Council water management works
- 37 Water in water management works is property of Crown
- 38 Further powers of Board and Council
- 39 Power to require landholders to contribute to cost of works
- 40 Fencing of water management works and drainage reserves

Division 2—Private water management works

- 41 Water management works not to be constructed, altered or removed without a licence
- 42 Certain bridges and culverts not to be constructed without a licence
- 43 Grant of licences
- 44 Power of authority to direct certain work be carried out

Division 3—Offences

- 45 Water not to be taken from Board or Council water management works
- 46 Board and Council water management works not to be interfered with
- 47 Permission may be conditional

Division 4—Appeals

- 48 Rights of appeal
- 49 Decision or requirement may be suspended pending appeal

Part 4—Miscellaneous

- 50 Power to waive or defer payments
- 51 Appointment of authorised officers
- 52 Powers of authorised officers
- 53 Hindering etc persons engaged in the administration of this Act
- 54 Proceedings for offences
- 55 Offences by body corporate
- 56 General defence
- 57 Evidentiary
- 58 Protection from personal liability
- 59 Regulations

Schedule 1—Land comprising the South East

Schedule 2—Land excluded from the area of the Council

Schedule 3—Central Electoral Zone

Schedule 4—Northern Electoral Zone

Schedule 5—Southern Electoral Zone

Schedule 6—Transitional provisions

Legislative history

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *South Eastern Water Conservation and Drainage Act 1992*.

3—Interpretation

In this Act, unless the contrary intention appears—

authorised officer means a person appointed by the Board or the Council as an authorised officer under this Act;

the Board means the South Eastern Water Conservation and Drainage Board (see Part 2);

the Board's area means that part of the South East that does not fall within the Council's area;

the Central Electoral Zone means that part of the South East defined as the Central Electoral Zone in Schedule 3, as modified by regulation consequent upon any alteration of the area comprising the South East by regulation;

the Council means the District Council of Millicent;

the Council's area means the area of the Council under the *Local Government Act 1934*, but excluding the land described in Schedule 2;

drain does not include a drain within a township;

drainage hole means an artificial or natural hole capable of allowing surface water to drain into the underground water system;

drainage reserve means any Crown lands that are dedicated, reserved or set aside for drainage purposes;

the Eight Mile Creek area means the Hundreds of Caroline and MacDonnell;

eligible landholder, in relation to an electoral zone or the area served by an advisory committee, means a person who is a landholder of more than 10 hectares of land within that electoral zone or that area, as the case may require;

lake means a natural lake and includes a natural lagoon, swamp, marsh or spring;

landholder means—

- (a) an owner or occupier of land in the South East; and
- (b) in relation to eligibility for membership of the Board, includes a director of a company that is an owner or occupier of land in the South East;

the Northern Electoral Zone means that part of the South East defined as the Northern Electoral Zone in Schedule 4, as modified by regulation consequent upon any alteration of the area comprising the South East by regulation;

owner of land means—

- (a) in relation to land alienated from the Crown by grant in fee simple—the holder of the fee simple;
- (b) in relation to land held under Crown lease or licence—the lessee or licensee;
- (c) in relation to land held under an agreement to purchase from the Crown—the person entitled to the benefit of the agreement;

the relevant authority in relation to the South East means the Board or the Council, as the case may require;

the repealed Act means the *South-Eastern Drainage Act 1931*;

River Murray Protection Area means a River Murray Protection Area under the *River Murray Act 2003*;

the South East means that part of the State described in Schedule 1 including any land added to the South East by the regulations but excluding any land excluded from the South East by the regulations;

the Southern Electoral Zone means that part of the South East defined as the Southern Electoral Zone in Schedule 5, as modified by regulation consequent upon any alteration of the area comprising the South East by regulation;

surface water means water that collects on or flows onto or from the surface of land, and includes the water in any water management works, lake or watercourse;

the Upper South East means that part of the South East that comprises the Northern Electoral Zone;

watercourse means a river, creek or other natural watercourse;

water management works means—

- (a) any drain, artificial drainage hole, dam, bank or other device or works constructed or used for the purposes of conserving, draining or altering the flow of surface water from or onto land or utilising any such water, including any ancillary access road, bridge or culvert or other ancillary works; and
- (b) any works constructed for the purpose of lowering water table levels.

4—Minister may direct vesting of works

- (1) The Minister may, by notice in the Gazette—
 - (a) direct that any specified private water management works vest in the relevant authority for the area in which the works are situated; or

- (b) direct that any specified Board or Council water management works vest in some other specified person or authority.
- (2) The Minister may, by notice in the Gazette, vary or revoke a notice under subsection (1).
- (3) The Minister cannot issue a notice under this section except at the request of, or with the approval of, all persons and authorities (other than the Board) in whom the works the subject of the notice are vested or are to be vested.
- (4) Where the water management works are vested or are to be vested in the Board, the Minister must consult with the Board before issuing a notice under subsection (1).

5—Interaction of this Act with other Acts

- (1) Subject to this Act, this Act is in addition to and does not derogate from the operation of any other Act and the Board and the Council must, in exercising powers under this Act, comply with the provisions of relevant Acts.
- (2) Subject to subsections (3) and (5), this Act does not apply in relation to any area that is within the Project Area under the *Upper South East Dryland Salinity and Flood Management Act 2002*.
- (3) The Minister to whom the administration of the *Upper South East Dryland Salinity and Flood Management Act 2002* is committed may—
 - (a) enter into agreements or other arrangements with the Board or the Council to undertake, co-ordinate or advance activities, works or other initiatives that are relevant to the operation of that Act and this Act; and
 - (b) delegate any power or function of the Minister under that Act to the Board or to the Council.
- (4) A power or function delegated under subsection (3)(b) may, if the instrument of delegation so provides, be further delegated.
- (5) The Governor may, by regulation, declare that a provision of this Act, with or without modification, will extend in its operation to an area or areas within the Project Area under the *Upper South East Dryland Salinity and Flood Management Act 2002* (and any such regulation will have effect according to its terms).

6—Power of Minister to delegate

- (1) The Minister may delegate any of his or her powers under this Act (except for this Part and Part 2) to the Board.
- (2) A delegation under this section—
 - (a) must be by instrument in writing; and
 - (b) may be absolute or conditional; and
 - (c) is revocable by the Minister at will; and
 - (d) does not derogate from the power of the Minister to act in any matter.

7—Objects of this Act

- (1) The objects of this Act are—
 - (a) the prevention or minimisation of damage to agricultural production and the natural environment caused by flooding within the South East; and
 - (b) the improvement of the soil quality and the productiveness generally of rural lands in the South East; and
 - (c) the enhancement or development of natural wetlands and the natural environment generally in the South East.
- (2) The Minister, the Board, the Council and all other bodies or persons involved in the administration of this Act must, in carrying out that administration, act consistently with and seek to further the objects of this Act.

7A—Objects of *River Murray Act 2003*

The Minister, the Board, the Council and all other bodies and persons involved in the administration of this Act must, if or when taking any action under this Act within, or in relation to, any part of the Murray-Darling Basin within the meaning of the *Murray-Darling Basin Act 1993*, act consistently with and seek to further—

- (a) the objects of the *River Murray Act 2003*; and
 - (b) the *Objectives for a Healthy River Murray* under that Act,
- (insofar as they may be relevant).

Part 2—Administration

Division 1—The South Eastern Water Conservation and Drainage Board

8—Establishment of the Board

- (1) The Board under the repealed Act continues in existence under the name *South Eastern Water Conservation and Drainage Board*.
- (2) The Board—
 - (a) is a body corporate with full juristic capacity to exercise any powers that are by their nature capable of being exercised by a body corporate; and
 - (b) holds its property on behalf of the Crown.
- (3) Where an apparently genuine document purports to bear the common seal of the Board, it will be presumed in any legal proceedings, in the absence of proof to the contrary, that the common seal of the Board was duly affixed to that document.

9—Membership of the Board

The Board will consist of eight members as follows:

- (a) four members will be persons appointed by the Governor on the nomination of the Minister, being persons who have, in the opinion of the Minister, knowledge or experience appropriate to the administration of this Act and at least one of whom has knowledge or experience in the field of environmental management; and

- (b) one member will be a person appointed by the Governor on the nomination of the Local Government Association of South Australia; and
- (c) three members will be persons elected to office as follows:
 - (i) one, being an eligible landholder in the Northern Electoral Zone, will be elected to office by the voters for that zone; and
 - (ii) one, being an eligible landholder in the Central Electoral Zone, will be elected to office by the voters for that zone; and
 - (iii) one, being an eligible landholder in the Southern Electoral Zone, will be elected to office by the voters for that zone.

10—Board elections

- (1) Elections of Board members will be conducted by the Electoral Commissioner in accordance with rules prepared by the Commissioner and approved by the Minister.
- (2) Where it is proposed to hold an election under this section—
 - (a) if there is only one candidate for election, the Electoral Commissioner may declare that candidate duly elected without a vote being taken;
 - (b) if there are no candidates for election, the Governor may appoint an eligible landholder from the relevant electoral zone to the vacant office,and, in either case, the person will be taken to have been duly elected to the Board in accordance with this Act.
- (3) Where elections for more than one electoral zone are to be held at the same time, a person cannot be a candidate for more than one zone.

11—Entitlement to vote at Board elections

- (1) The voters roll for the purposes of an election to fill a vacancy on the Board will be prepared by the Board with the assistance of the Valuer-General.
- (2) The following persons are entitled to be enrolled on the voters roll for an electoral zone:
 - (a) a natural person who is the sole owner or occupier of more than 10 hectares of land in the zone;
 - (b) a body corporate that is the sole owner or occupier of more than 10 hectares of land in the zone;
 - (c) a group of persons (consisting of natural persons, bodies corporate or partly natural persons and partly bodies corporate)—
 - (i) who are joint owners, owners in common or joint occupiers of more than 10 hectares of land in the zone; and
 - (ii) at least one of whom is not enrolled on the roll for the zone under paragraph (a) or (b).
- (3) A body corporate or a group that is entitled to be enrolled on a voters roll in pursuance of subsection (2) may, by notice in writing (in the prescribed form and containing the prescribed declarations) lodged with the Board—
 - (a) nominate a natural person to act as an elector on its behalf; or

- (b) cancel any such nomination previously made and make a fresh nomination in its place.
- (4) A person may not be nominated as the nominated agent of a body corporate or a group under subsection (3) unless that person—
 - (a) in the case of a nomination made by a body corporate—is a director, manager or other employee of the body corporate;
 - (b) in the case of a nomination by a group—is a member of the group or a director, manager or other employee of a body corporate that is a member of the group.
- (5) A nomination in force under this section must be recorded by the Board in the voters roll alongside the name of the body corporate or group by which the nomination was made.
- (6) A person whose name is recorded in the voters roll as a nominated agent will be regarded as having been enrolled as an elector.
- (7) The validity of a voters roll is not affected by a misdescription or any other error in the roll.
- (8) The following persons are entitled to vote at an election for an electoral zone:
 - (a) a natural person whose name appears on the electoral roll as an elector for the zone; and
 - (b) in the case of a group of natural persons that is on the electoral roll as an elector for the zone but in respect of which no nomination under subsection (3) is in force—the member of the group whose name is listed first on the electoral roll,

(the electoral roll referred to in this subsection being the electoral roll as in force on the day on which nominations for the election open).
- (8a) A person who is entitled to vote at an election as a member of a group pursuant to subsection (8)(b) will, for the purposes of subsections (9) and (10), be taken to be the nominated agent for that group.
- (9) Where an elector's name appears in the voters roll used for an election both as an elector in his or her own right and as a nominated agent, the elector is entitled to vote at the election both in his or her own right and as a nominated agent.
- (10) Where an elector's name appears in the voters roll used for an election as a nominated agent under a number of separate nominations, the elector is entitled to vote at the election in respect of each of those nominations.
- (11) The voters roll to be used for an election must be made available for inspection by members of the public at the Board's principal office.
- (12) A voters roll is conclusive evidence of the entitlement of any person whose name appears in the roll to vote at an election at which the roll is used.
- (13) A person whose name has been omitted in error from a voters roll used for an election is entitled to vote at the election as if the error had not occurred.

12—Presiding member and deputies

- (1) The Governor will appoint one of the members of the Board to be the presiding member of the Board and one other member to be the deputy presiding member of the Board.
- (2) An appointment cannot be made under subsection (1) unless the Minister has first consulted with and considered any recommendations of the Board in the matter.
- (3) The Governor may appoint a suitable person to be the deputy of any member of the Board (other than the presiding member).
- (4) A person appointed under subsection (3) as the deputy of a member may, in the absence of the member, act as a member of the Board.

13—Term of office of Board members

- (1) An appointed member of the Board will be appointed for a term not exceeding 4 years.
 - (1a) An elected member of the Board will be elected for a term of 4 years.
- (1b) A member of the Board is, on the expiration of a term of office, eligible for reappointment or re-election (unless he or she no longer satisfies the eligibility requirements for appointment or election to the Board).
- (2) The Governor may remove a member of the Board from office—
 - (a) for misconduct; or
 - (b) for neglect of duty; or
 - (c) for incompetence; or
 - (d) for mental or physical incapacity to carry out satisfactorily the duties of office.
- (3) The office of a member of the Board becomes vacant if the member—
 - (a) dies; or
 - (b) completes a term of office; or
 - (c) resigns by notice in writing addressed to the Minister; or
 - (d) is removed from office by the Governor under subsection (2).
- (5) Subject to subsection (6), on the office of an elected member becoming vacant otherwise than on expiration of a term of office, a person must be elected in accordance with this Act to the vacant office for the balance of the unexpired term.
- (6) On the office of an elected member becoming vacant not more than 12 months prior to the expiry of the term of office, the Governor may appoint a suitable person to the vacant office for the balance of the unexpired term.
- (7) A person is not eligible to be appointed under subsection (6) to the vacant office of an elected member unless he or she is an eligible landholder within the same electoral zone as that of the former member.

14—Allowances

A member of the Board is entitled to such allowances and expenses as the Governor may determine.

15—Procedure at meetings

- (1) A meeting of the Board will be chaired by the presiding member or, in his or her absence, by the deputy presiding member, and, in the absence of both the presiding member and the deputy presiding member, the members present at a meeting of the Board must choose one of their number to preside at the meeting.
- (2) Five members of the Board, of whom at least one is an elected member, constitute a quorum of the Board and no business may be transacted at a meeting of the Board unless a quorum is present.
- (3) Subject to subsection (2), the Board may act notwithstanding vacancies in its membership.
- (4) Each member present at a meeting of the Board is (subject to section 16) entitled to one vote on a matter arising for decision at the meeting, but the person presiding at the meeting has, in the event of an equality of votes, a casting vote as well as a deliberative vote.
- (5) A decision carried by a majority of the votes cast by the members present and voting at a meeting is a decision of the Board.
- (6) The Board must cause accurate minutes to be kept of its proceedings at meetings.
- (7) The procedure for the calling of meetings of the Board and for the conduct of business at meetings will, subject to this Act, be determined by the Board.

16—Conflict of interest

- (1) A member of the Board who has an interest in a matter before the Board must disclose the existence of that interest to the Board.
Maximum penalty: \$5 000 or imprisonment for 1 year.

- (2) A member of the Board has an interest in a matter before the Board if—
 - (a) the member or a person with whom the member is closely associated would, if the matter were decided in a particular manner, receive or have a reasonable expectation of receiving a direct or indirect pecuniary benefit or suffer or have a reasonable expectation of suffering a direct or indirect pecuniary detriment; or
 - (b) the member or a person with whom the member is closely associated would, if the matter were decided in a particular manner, obtain or have a reasonable expectation of obtaining a non-pecuniary benefit or suffer or have a reasonable expectation of suffering a non-pecuniary detriment,

not being a benefit or detriment that would be enjoyed or suffered by the member, or the person who is closely associated with a member, in common with any other substantial class of persons.

- (3) A person is closely associated with a member of the Board if that person is—
 - (a) a body corporate of which the member is a director or a member of the governing body; or

- (b) a proprietary company in which the member is a shareholder; or
 - (c) a beneficiary under a trust or an object of a discretionary trust of which the member is a trustee; or
 - (d) a party to a partnership or share-farming agreement to which the member is also a party; or
 - (e) an employer or an employee of the member; or
 - (f) the spouse, parent or child of the member.
- (4) A disclosure under subsection (1) must be recorded in the minutes of the Board.
- (5) A member of the Board who has an interest in a matter before the Board—
- (a) must not, except on the request of the Board, take part in any discussion by the Board relating to that matter; and
 - (b) must not vote in relation to that matter; and
 - (c) must, unless the Board permits otherwise, be absent from the meeting room when any such discussion or voting is taking place.

Maximum penalty: \$5 000 or imprisonment for 1 year.

- (6) It is a defence to a charge of an offence against this section for the defendant to prove that, at the time of the alleged offence, the defendant was unaware of his or her interest in the matter.
- (7) The fact that a member has failed to comply with this section in relation to a matter does not, of itself, invalidate a resolution or decision on that matter, but, where it appears that the non-compliance may have had a decisive influence on the passing of the resolution or the making of the decision, the Supreme Court may, on the application of the Board, the Minister or any person affected by the resolution or decision, annul the resolution or decision and make such ancillary orders as it thinks fit.

Division 2—Functions and general powers of Board

17—Functions of Board

- (1) The functions of the Board are—
- (a) to provide an effective and efficient system for managing the surface water of the non-urban lands in the South East, by conserving, draining, altering the flow of or utilising that water in any manner;
 - (b) to carry out works for the purpose of lowering the level of the water table of lands in the South East;
 - (c) to undertake, assist or promote research in the fields of water conservation, drainage and management;
 - (d) to give advice and assistance to others in the fields of water conservation, drainage and management.

- (2) In performing its functions under this Act the Board must—
 - (a) consult with the relevant authorities under all Acts dealing with protection of the environment, soil conservation or management or protection of water resources, and act in conformity with the policies established under those Acts;
 - (b) encourage and promote active community involvement in water conservation and management matters;
 - (c) seek to administer this Act on the basis of negotiation with landholders and all other relevant persons or authorities.
- (3) Without limiting subsection (2), the Board must ensure that its activities are consistent with any NRM plan under the *Natural Resources Management Act 2004* that applies within the South East.

18—Management plan

- (1) The Board must, within a year of the commencement of this Act, develop a management plan detailing the action that is to be taken by the Board and the Council in the administration of this Act over the ensuing three years.
- (2) The Board must review and update its management plan annually and may make such modifications or additions to the plan as it thinks necessary or desirable.
- (3) The Board must consult with the Council in developing or reviewing its management plan insofar as the plan affects the Council's area.
- (3a) The Board must consult with the Minister to whom the administration of the *River Murray Act 2003* is committed in reviewing its management plan insofar as the plan affects the River Murray within the meaning of that Act.
- (4) The Board must give the community within the South East a reasonable opportunity to inspect and comment on its management plan as it is developed or reviewed, and must give due consideration to any submissions that may be made.
- (5) The Board must submit its initial management plan and any subsequent modifications or additions to the plan to the Minister for approval.
- (6) The Minister may, before giving his or her approval, direct the Board to make any alteration to the management plan that the Minister thinks appropriate and the Board must comply with any such direction.

19—General powers of the Board

For the purpose, or in the course, of performing its functions, the Board may—

- (a) enter into a contract, agreement or arrangement of any kind (whether with landholders or any other person or authority);
- (b) acquire (whether by agreement or pursuant to the *Land Acquisition Act 1969*), hold, deal with or dispose of real or personal property or any interest in real or personal property;
- (c) seek expert or technical advice on any matter from any person on such terms and conditions as the Board thinks fit;
- (d) borrow or lend money;

- (e) exercise any other power that is necessary for, or incidental to, the performance of its functions.

20—Board subject to control of Minister

The Board is subject to control and direction by the Minister in the exercise of its powers and functions under this Act.

21—Power of Board to delegate

- (1) The Board may delegate any of its powers or functions (including a power delegated by the Minister) to a member or employee of the Board or a committee established under this Act.
- (2) A delegation under this section—
 - (a) must be by instrument in writing; and
 - (b) may be absolute or conditional; and
 - (c) is revocable by the Board at will; and
 - (d) does not derogate from the power of the Board to act in any matter.

22—Staff

- (1) The staff of the Board is comprised of—
 - (a) such Public Service employees as are assigned to assist the Board; and
 - (b) such other persons as the Board may employ for the purposes of the administration of this Act.
- (2) A person employed under subsection (1)(b) is not a Public Service employee.
- (3) The Board may, with the approval of the appropriate Minister, make use of Government facilities or equipment.

23—Accounts and audit

- (1) The Board must cause proper accounts to be kept of its financial affairs.
- (2) The Auditor-General may at any time, and must at least once in every year, audit the accounts of the Board.

24—Annual report

- (1) The Board must, no later than 30 September in each year, submit to the Minister a report on the administration of this Act during the financial year ending on the preceding 30 June.
- (2) The report—
 - (a) must incorporate the audited statement of accounts for the period to which the report relates; and
 - (b) must include particulars of the action taken by the Board and the Council in meeting the objectives of the approved management plan under which they operated during that period.
- (3) The Minister must, within 12 sitting days of receiving a report under subsection (1), cause a copy of the report to be laid before each House of Parliament.

Division 3—Functions and duties of the Council

25—Functions of the Council

- (1) The function of the Council under this Act is to implement, within the Council's area, the Board's approved management plan insofar as it affects that area.
- (2) In performing that function, the Council must—
 - (a) encourage and promote active community involvement in water conservation and management matters; and
 - (b) seek to administer this Act on the basis of negotiation with landholders and all other relevant persons or authorities.

26—Council subject to control of Minister

The Council is subject to the control and direction of the Minister in the exercise of its powers and functions under this Act.

27—Council to keep a separate fund

- (1) The Council must continue to maintain a separate fund into which all money received by the Council under this Act must be paid.
- (2) The money in the fund is to be expended by the Council only for the purposes of this Act.
- (3) The Council must furnish the Minister with such estimates, reports, accounts and any other information as the Minister may from time to time request.
- (4) The Council must—
 - (a) keep proper accounts of its income and expenditure under this Act; and
 - (b) the Auditor-General may, at the request of the Minister, audit the accounts kept by the Council pursuant to this section.

28—Power of Council to delegate

- (1) The Council may, with the approval of the Minister, delegate any of its powers or functions under this Act to the Board.
- (2) A delegation under this section—
 - (a) must be by instrument in writing; and
 - (b) may be absolute or conditional; and
 - (c) is revocable by the Council at will; and
 - (d) does not derogate from the power of the Council to act in any matter.

Division 4—Advisory committees

29—Eight Mile Creek Water Conservation and Drainage Advisory Committee

- (1) The *Eight Mile Creek Water Conservation and Drainage Advisory Committee* is established.

- (2) The Committee will be appointed by the Minister and will consist of such number of members, with such qualifications, as the Minister thinks appropriate.
- (3) Without limiting subsection (2), of the members—
 - (a) one must be a person nominated by the Board; and
 - (b) at least three must be eligible landholders within the Eight Mile Creek area nominated by a meeting of the eligible landholders in that area convened and held by the Board for the purpose; and
 - (c) one or more must be employees in such administrative units or instrumentalities of the Crown as the Minister thinks relevant to the administration of this Act in the Eight Mile Creek area.
- (4) The person appointed under subsection (3)(a) will chair the Committee.
- (5) If a meeting held pursuant to subsection (3)(b) fails to nominate the number of persons required, the Minister may appoint such number of eligible landholders as may be necessary to ensure compliance with that paragraph.
- (6) The functions of the Committee are—
 - (a) to advise the Board, on the Committee's own motion or at the request of the Board, on the administration of this Act within the Eight Mile Creek area; and
 - (b) to perform such other functions as the Minister may assign to the Committee.

31—Other advisory committees

The Minister may, after consulting the Board, establish such other advisory committees as the Minister thinks necessary or desirable for the proper administration of this Act.

32—Terms and conditions of office

- (1) A member of an advisory committee established by or under this Part will be appointed for such term, not exceeding four years, as is determined by the Minister and specified in the instrument of appointment.
- (2) The Minister may remove a member of an advisory committee from office—
 - (a) for misconduct; or
 - (b) for neglect of duty; or
 - (c) for incompetence; or
 - (d) for mental or physical incapacity to carry out satisfactorily the duties of office.
- (3) The office of a member of an advisory committee becomes vacant if the member—
 - (a) dies; or
 - (b) completes a term of office; or
 - (c) resigns by notice in writing addressed to the Minister; or
 - (d) is removed from office by the Minister under subsection (2).
- (4) A member of an advisory committee is entitled to such allowances and expenses as the Governor may determine.

33—Procedure for advisory committees

- (1) The person appointed to chair an advisory committee will preside at any meeting of the committee at which he or she is present and, in his or her absence from a meeting, the members present must select one of their number to preside at that meeting.
- (2) A quorum of an advisory committee is constituted by a number of members equal to the number gained by dividing the number of members appointed to the committee by two, ignoring any resulting fraction and adding one.
- (3) No business may be transacted at a meeting of an advisory committee unless a quorum is present.
- (4) Each member present at a meeting of an advisory committee is entitled to one vote on a matter arising for decision at the meeting, but the person presiding at the meeting has, in the event of an equality of votes, a casting vote as well as a deliberative vote.
- (5) A decision carried by a majority of the votes cast by the members present and voting at a meeting of an advisory committee is a decision of the committee.
- (6) The procedure for the calling of meetings of an advisory committee and for the conduct of business at meetings will, subject to this Act, be determined by the advisory committee.

Part 3—Water management works

Division 1—Board and Council water management works

34—Board water management works

- (1) Subject to this section, the Board may, within the Board's area, construct such water management works, or alter or remove such of the Board's water management works, as the Board thinks necessary or desirable for the purposes of this Act.
- (2) The Board must endeavour to maintain all its water management works in a good state of safety, cleanliness and repair and in efficient working order.
- (3) The Board must not, except with the approval of the Minister, undertake any work pursuant to this section that is not contemplated by the Board's approved management plan.
- (4) The Board must not, except with the approval of the Minister to whom the administration of the *River Murray Act 2003* is committed, undertake any work pursuant to this section that might affect the River Murray within the meaning of that Act that is not contemplated by the Board's approved management plan.

35—Council water management works

- (1) Subject to this section, the Council may, within the Council's area, construct such water management works, or remove or alter such of the Council's water management works, as the Council thinks necessary or desirable for the purposes of this Act.
- (2) The Council must endeavour to maintain all its water management works in a good state of safety, cleanliness and repair and in efficient working order.

- (3) The Council must not, except with the approval of the Minister, undertake any work pursuant to this section that is not contemplated by the Board's approved management plan.

36—Discharge of stormwater into Council water management works

- (1) The Council may discharge township stormwater into any of the Council's water management works under this Act.
- (2) The cost incurred by the Council in altering or repairing its water management works as a result of the discharge of stormwater into the works will be borne by the Council out of the funds of the Council not consisting of money appropriated or allocated for the purposes of this Act.

37—Water in water management works is property of Crown

- (1) The water in the Board's or Council's water management works under this Act is the exclusive property of the Crown.
- (2) The Minister may, on such conditions as the Minister thinks fit, grant to any person the right to take or use the water in any such water management works.

38—Further powers of Board and Council

- (1) Without limiting any other powers conferred by this Act, the relevant authority may, for the purposes of this Act, do all or any of the following things within its area:
 - (a) enter upon any land for the purpose of exercising powers under this Act;
 - (b) inspect, survey, take samples of soil or water from, or carry out tests on, any land;
 - (c) inspect any private water management works;
 - (d) widen, deepen, clean out, shore up or raise or lower the banks of any watercourse, drainage hole, dam, lake or well.
- (2) The power to enter land is, except in cases where urgent action is required to deal with a flood, potential flood or other emergency, exercisable only at a reasonable time of the day and upon giving reasonable notice, being not less than one day, to the landholder.

39—Power to require landholders to contribute to cost of works

- (1) Where one or more landholders have entered into an agreement with the relevant authority for the carrying out by the authority of any work to be wholly funded by landholders or jointly funded by landholders and the authority, the authority—
 - (a) must determine which landholdings will, in the opinion of the authority, benefit from the proposed works; and
 - (b) must endeavour to reach agreement with all the landholders so benefited (whether or not parties to the agreement referred to in subsection (1)) as to the proportion of the cost to be borne by each of them.

- (2) The authority may proceed with any proposed work if an agreement is reached in accordance with subsection (1) with at least 55 per cent of the landholders whose land will, in the opinion of the authority, benefit from the work, provided that those landholders with whom agreement has been reached represent between them at least 75 per cent of the total area of land that will be so benefited.
- (3) A landholder who refuses or fails to reach agreement as to the contribution to be paid by the landholder towards the cost of work carried out by the relevant authority pursuant to this section is liable to the authority for that proportion of the total cost to be borne by landholders that the area of the landholder's land that will benefit from the work bears to the total area that will so benefit.
- (4) The relevant authority may, no later than three months after completion of the work, by notice in writing addressed to a landholder who is liable to pay a contribution pursuant to subsection (3), require payment of the relevant amount and specify the manner in which it is to be paid and the time within which it, or any instalment, is to be paid.
- (5) If default is made in payment of an instalment, the whole balance outstanding under the notice falls due and payable.
- (6) The amount due and payable under a notice under this section—
 - (a) is recoverable by the relevant authority as a debt; and
 - (b) is a charge over the land in question, being a charge that ranks in priority before all other charges or mortgages (other than a charge or mortgage in favour of the Crown or a Crown instrumentality).
- (7) Nothing in this section prevents the relevant authority from carrying out work at its own cost should agreement not be reached with the required number of landholders.

40—Fencing of water management works and drainage reserves

- (1) The relevant authority—
 - (a) may cause any of its water management works or any drainage reserve under its care, control and management to be fenced to such extent and in such manner as is reasonably adequate for the purposes of protecting the works or reserve from damage; and
 - (b) may cause any such fence to be repaired, maintained or replaced as is reasonably necessary.
- (2) Subject to the terms of any agreement reached with the authority—
 - (a) the landholder, or landholders, of land adjoining any such fence is, or are jointly, liable to the relevant authority for half the cost of the fencing work in question; and
 - (b) where there is more than one adjoining landholder, each is liable to the authority for that proportion of the share to be borne by all adjoining landholders that the length of the landholder's common boundary (with the water management works or drainage reserve) bears to the overall length of the fence.

- (3) The relevant authority may, no later than three months after completion of the fencing work, by notice in writing addressed to a landholder who is liable to pay a contribution pursuant to this section, require payment of the relevant amount and specify the manner in which it is to be paid and the time within which it, or any instalment, is to be paid.
- (4) If default is made in payment of an instalment, the whole balance outstanding under the notice falls due and payable.
- (5) An amount due and payable under a notice under this section—
 - (a) is recoverable by the relevant authority as a debt; and
 - (b) is a charge over the land in question ranking in priority before all other charges and mortgages (other than a charge or mortgage in favour of the Crown or a Crown instrumentality).
- (6) The *Fences Act 1975* does not apply in relation to fencing work carried out by a relevant authority in respect of water management works or a drainage reserve.

Division 2—Private water management works

41—Water management works not to be constructed, altered or removed without a licence

A person must not, except in pursuance of a licence granted under this Division by the relevant authority—

- (a) construct water management works on land in the South East; or
- (b) remove or alter any water management works (whether constructed before or after the commencement of this Act) on land in the South East; or
- (c) close off or obstruct in any way any drainage hole,

if to do so would, or would be likely to, stop, increase, decrease or otherwise affect the flow of water from or onto land adjacent to that land, or the flow of water into a watercourse or any Board or Council water management works.

Maximum penalty: \$10 000.

42—Certain bridges and culverts not to be constructed without a licence

A person must not erect a bridge or construct a culvert over, through or along any Board or Council water management works or a drainage reserve except in pursuance of a licence granted by the relevant authority.

Maximum penalty: \$10 000.

43—Grant of licences

- (1) The relevant authority may grant a licence authorising a person to carry out work specified in the licence.
- (2) An application for a licence must be in a form approved by the Minister and must be accompanied by the prescribed fee.
- (3) A licence may be subject to such conditions as the relevant authority thinks fit and specifies in the licence.

- (4) The conditions of a licence may, by notice in writing addressed to the holder of the licence, be varied, revoked or added to at any time by the relevant authority.
- (5) A person who contravenes or fails to comply with a condition of a licence under this Division is guilty of an offence.
Maximum penalty: \$10 000.
- (6) If an application for a licence relates to work that is to be carried out within a River Murray Protection Area and is within a class of applications prescribed by the regulations for the purposes of this provision (which class may be prescribed so as to consist of applications for all such licences), the relevant authority must, before making its decision on the application—
 - (a) consult the Minister to whom the administration of the *River Murray Act 2003* is committed; and
 - (b) comply with the Minister's directions (if any) in relation to the application (including a direction that the application not be granted, or that if it is to be granted, then the licence be subject to conditions specified by the Minister).

44—Power of authority to direct certain work be carried out

- (1) Where—
 - (a) any work has been carried out or any other thing done by a person in contravention of this Division or the repealed Act; or
 - (b) a person contravenes or fails to comply with a condition of a licence under this Division; or
 - (c) the relevant authority is of the opinion that any water management works constructed by a person pursuant to a licence (whether before or after the commencement of this Act) are having a harmful effect on the proper management or conservation of surface or underground water in the South East,

the relevant authority may, by notice in writing addressed to the person, require the person, within the time specified in the notice, to take specified steps (which may include the complete removal of any work) to remedy the contravention or non-compliance or to ensure the proper management or conservation of surface or underground water, as the case may be.
- (2) Where a person to whom a notice under subsection (1) has been given fails to comply with the notice, the relevant authority may cause such work to be carried out as full compliance with the notice may require.
- (3) The costs incurred by an authority in exercising its powers under subsection (2)—
 - (a) may be recovered as a debt from the person in default; and
 - (b) are a charge over the land on which the works in question are situated, being a charge that ranks in priority before all other charges and mortgages (other than a charge or mortgage in favour of the Crown or a Crown instrumentality).
- (4) The powers exercisable by a relevant authority under this section in relation to a person may be exercised in relation to a successor in title to the land on which the works in question are situated.

Division 3—Offences

45—Water not to be taken from Board or Council water management works

A person must not, without the permission of the Minister, take water from any Board or Council water management works.

Maximum penalty: \$10 000.

46—Board and Council water management works not to be interfered with

A person must not, without the permission of the relevant authority, interfere in any way with any Board or Council water management works or the operation of any such works, or with a drainage reserve or a road adjoining a drainage reserve.

Maximum penalty: \$10 000.

47—Permission may be conditional

- (1) The granting of permission under this Division may be subject to such conditions as the person granting the permission thinks fit.
- (2) A person who contravenes or fails to comply with any such condition is guilty of an offence.

Maximum penalty: \$10 000.

Division 4—Appeals

48—Rights of appeal

- (1) A right of appeal lies to the Environment, Resources and Development Court in the following cases:
 - (a) a landholder may appeal against a decision of the relevant authority made under section 39 that a particular landholding would benefit from the proposed carrying out of certain work by the authority;
 - (b) an applicant for a licence under section 41 (construction, alteration or removal of water management works) or section 42 (construction of bridge or culvert) may appeal against a decision of the relevant authority to refuse a licence;
 - (c) the holder of a licence may appeal against a decision of the relevant authority to vary or add to the conditions to which the licence is subject;
 - (d) a person who has been required by the relevant authority by a notice under section 44 to take specified steps may appeal against a requirement of the notice.
- (2) An appeal must be instituted in the prescribed manner and form within six weeks of the decision or requirement appealed against or within such further time as the Court considers to be reasonable in the circumstances.

- (3) On an appeal the Court may—
 - (a) affirm, vary or quash the decision or requirement appealed against or substitute any decision or requirement that should have been made in the first instance; or
 - (b) remit the subject matter of the appeal to the relevant authority for further consideration.

49—Decision or requirement may be suspended pending appeal

- (1) Where a decision or requirement has been made by the relevant authority and the relevant authority or the Environment, Resources and Development Court is satisfied that an appeal against the decision or requirement has been instituted, or is intended, the relevant authority or the Court may suspend the operation of the decision or requirement until the determination of the appeal.
- (2) A suspension under subsection (1) may be terminated at any time by the relevant authority or the Court (as the case may require).

Part 4—Miscellaneous

50—Power to waive or defer payments

- (1) The relevant authority may, if it thinks good reason exists for doing so, waive or defer payment of any amount due and payable to it by any person pursuant to this Act.
- (2) The relevant authority may waive or defer payment on such conditions as it thinks fit, including a condition providing for the payment of interest on an amount deferred.

51—Appointment of authorised officers

- (1) The Board or the Council may appoint persons to be authorised officers for the purposes of this Act.
- (2) Appointments may be made by name or by reference to office.
- (3) An authorised officer appointed by the Board cannot exercise the powers of an authorised officer within the Council's area except with the written authority of the Council.
- (4) An authorised officer appointed by the Council cannot exercise the powers of an authorised officer within the Board's area except with the written authority of the Board.
- (5) A person appointed as an authorised officer must be issued with an identity card in a form approved by the Minister.
- (6) The relevant authority may, by notice in writing given personally or by post to an authorised officer, revoke his or her appointment.

52—Powers of authorised officers

- (1) An authorised officer may, for the purposes of the enforcement of this Act, exercise any of the following powers:
 - (a) enter any land in the South East;

- (b) inspect any such land or the surface water or water management works on any such land;
 - (c) measure or chart the flow of surface water on any such land;
 - (d) take photographs, films or video recordings on any such land;
 - (e) put to any person on any such land any question relating to the administration of this Act;
 - (f) require a person who the authorised officer reasonably suspects has committed, or is about to commit, an offence against this Act to state his or her name and usual place of residence;
 - (g) require a person holding, or required to hold, a licence or permit under this Act to produce that licence or permit for inspection by the authorised officer.
- (2) An authorised officer may, in exercising powers under this section, be accompanied by such assistants as are reasonably necessary for the purpose.
- (3) An authorised officer must, at the request of a landholder or the agent of a landholder, produce his or her identity card for inspection.
- (4) The power to enter land is, except in cases of emergency, exercisable only at a reasonable time of the day.
- (5) An authorised officer may use force in exercising the power to enter land—
- (a) on the authority of a warrant issued by a justice; or
 - (b) if the officer believes, on reasonable grounds, that the circumstances require urgent action to be taken.
- (6) A justice must not issue a warrant under subsection (5) unless satisfied, on information given on oath—
- (a) that there are reasonable grounds to suspect that an offence against this Act has been, is being, or is about to be committed; and
 - (b) that the warrant is reasonably required in the circumstances.
- (7) An inspector, or a person assisting an inspector, who—
- (a) addresses offensive language to any other person; or
 - (b) without lawful authority or a reasonable belief as to lawful authority, hinders or obstructs or uses or threatens to use force in relation to any other person,
- is guilty of an offence.
- Maximum penalty: \$5 000.

53—Hindering etc persons engaged in the administration of this Act

- (1) A person who—
- (a) without reasonable excuse, hinders or obstructs an authorised officer or other person engaged in the administration of this Act; or
 - (b) fails to answer a question put by an authorised officer to the best of his or her knowledge, information or belief; or

- (c) uses abusive, threatening or insulting language to an authorised officer, or a person assisting an authorised officer; or
 - (d) falsely represents, by word or conduct, that he or she is an authorised officer, is guilty of an offence.
- Maximum penalty: \$5 000.
- (2) A person is not required to answer a question put to him or her by an authorised officer if the answer would tend to incriminate the person of an offence.

54—Proceedings for offences

- (2) Proceedings for an offence against this Act may be commenced within three years after the date on which the offence is alleged to have been committed.

55—Offences by body corporate

Where a body corporate is guilty of an offence against this Act, the manager and each member of the governing body of the body corporate are guilty of an offence against this Act, and liable to the same penalty as is prescribed for the principal offence.

56—General defence

It is a defence to a charge of an offence against this Act for the defendant to prove that the offence was not committed intentionally and did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence.

57—Evidentiary

- (1) An allegation by the prosecution in any proceedings for an offence against this Act that on a specified day—
- (a) a specified person was or was not the holder of a licence or permit under this Act; or
 - (b) a specified person was or was not the owner or occupier of specified land; or
 - (c) specified water management works were Board water management works or Council water management works; or
 - (d) a specified piece of land constituted a drainage reserve under the care, control and management of a specified authority; or
 - (e) specified land fell within the Board's area or the Council's area under this Act; or
 - (f) a specified person was an authorised officer or other person engaged in the administration of this Act,

will, in the absence of proof to the contrary, be taken to have been proved.

- (2) In any proceedings for an offence against this Act, a document purporting to be certified by the relevant authority or an authorised officer as an accurate copy of a licence or permit under this Act will, in the absence of proof to the contrary, be taken to be an accurate copy of the licence or permit in question.

58—Protection from personal liability

- (1) A person engaged in the administration of this Act incurs no liability for an honest act or omission in the exercise or discharge, or purported exercise or discharge, by the person, or by a body of which he or she is a member, of a power, function or duty under this Act.
- (2) A liability that would, but for subsection (1), lie against a person lies instead against the Crown.

59—Regulations

- (1) The Governor may make such regulations as are contemplated by this Act or as are necessary or desirable for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), the regulations may—
 - (a) provide for the proper maintenance, cleanliness and repair of private water management works;
 - (b) fix fees and provide for their payment, recovery or waiver;
 - (c) provide for the granting by the Minister of conditional or unconditional exemptions from provisions of this Act;
 - (d) fix penalties not exceeding \$1 250 for breaches of the regulations.
- (3) Any regulation under this Act may be of general or limited application according to—
 - (a) the classes of person, land or works; or
 - (b) the circumstances; or
 - (c) any other specified factor,to which the regulation is expressed to apply.

Schedule 1—Land comprising the South East

The Hundreds of Glyde, Field, Colebatch, Richards, Coombe, Archibald, Makin, McCallum, Shaugh, Santo, Messent, McNamara, Laffer, Stirling, Pendleton, Cannawigara, Senior, Neville, Wells, Petherick, Willalooka, Wirrega, Tatiara, Duffield, Landseer, Peacock, Marcollat, Parsons, Beeamma, Geegeela, Lacepede, Murrabinna, Minecrow, Woolumbool, Glen Roy, Lochaber, Hynam, Binnun, Mount Benson, Bowaka, Townsend, Joyce, Spence, Naracoorte, Jessie, Ross, Conmurra, Robertson, Joanna, Waterhouse, Bray, Smith, Fox, Coles, Killanoola, Comaum, Lake George, Symon, Kennion, Short, Monbulla, Penola, Rivoli Bay, Mount Muirhead, Riddoch, Grey, Nangwarry, Mayurra, Hindmarsh, Young, Mingbool, Benara, Blanche, Gambier, Kongorong, MacDonnell and Caroline.

Schedule 2—Land excluded from the area of the Council

That portion of the Hundred of Mount Muirhead, County of Grey, bounded as follows:

Commencing at the north-eastern corner of the Hundred of Mount Muirhead; thence southerly along portion of the eastern boundary of the said hundred to its intersection with the production south-easterly of a south-western boundary of section 209; north-westerly along the latter production and boundary, a further south-western boundary of section 209 and the south-western boundaries of sections 211, 218 and 292 to the northern boundary of the Hundred of Mount Muirhead; thence easterly along the latter boundary to the point of commencement and crossing all intervening roads.

That portion of the Hundred of Rivoli Bay, County of Grey, bounded as follows:

Commencing at the north-western corner of the Hundred of Rivoli Bay; thence easterly along the northern boundary of the said hundred to its north-eastern corner; southerly along portion of the eastern boundary of the said hundred to the northern corner of section 17N; south-westerly along the north-western boundaries of sections 17N, 19 and 41 and portion of the north-western boundary of section 117 to a line parallel to and distant 10.06 metres from and situate generally easterly of the south-western boundary of section 117 and the western boundaries of sections 112 and 109; generally southerly along the said parallel line and its production southerly to the north-western boundary of section 434 (Hatherleigh Drain); south-westerly along the latter boundary for 160.9 metres; north-westerly at right angles to a south-eastern boundary of section 124; generally northerly along the south-eastern and eastern boundaries of section 124, the eastern boundaries of section 123 and the north-eastern boundary of section 118; south-westerly along the north-western boundaries of sections 118, 125 and 126 and production through section 429 (Trigonometrical Reserve), allotment 2 (Filed Plan No. 301) and sections 406, 358 and 428 (Lake Frome) to the northern boundary of the road generally southerly of and adjoining section 428; generally westerly along the northern boundary of the road generally southerly of and adjoining sections 428, 383 and 472, and south-east of and adjoining section 395 to the southern corner of section 395; north-westerly along portion of the south-western boundary of section 395 to the southern corner of section 389 (Drainage Reserve); generally north-westerly along the south-western boundaries of section 389 and the south-western and western boundaries of section 390 (Drainage Reserve) and production northerly to the sea coast; thence generally north-westerly along the sea coast to the point of commencement and crossing all intervening roads.

That portion of the Hundred of Young that falls within the local government area of the Council.

Schedule 3—Central Electoral Zone

The following land comprises the Central Electoral Zone:

The Hundreds of Neville, Wells, Duffield, Landseer, Peacock, Marcollat, Glen Roy, Lacepede, Murrabinnna, Minecrow, Woolumbool, Lochaber, Hynam, Binnum, Mount Benson, Bowaka, Townsend, Joyce, Spence, Naracoorte, Jessie, Conmurra, Robertson, Joanna, Fox and Coles.

Schedule 4—Northern Electoral Zone

The following land comprises the Northern Electoral Zone:

The Hundreds of Glyde, Field, Colebatch, Richards, Coombe, Archibald, Makin, McCallum, Shaugh, Santo, Messent, McNamara, Laffer, Stirling, Pendleton, Cannawigara, Senior, Petherick, Willalooka, Wirrega, Tatiara, Parsons, Beamma and Geegeela.

Schedule 5—Southern Electoral Zone

The following land comprises the Southern Electoral Zone:

The Hundreds of Waterhouse, Ross, Bray, Smith, Killanoola, Comaum, Lake George, Symon, Kennion, Short, Monbulla, Penola, Rivoli Bay, Mount Muirhead, Riddoch, Grey, Nangwarry, Mayurra, Hindmarsh, Young, Mingbool, Benara, Blanche, Kongorong, Gambier, MacDonnell and Caroline.

Schedule 6—Transitional provisions

- 3 All members of the South Eastern Drainage Board will, on the commencement of this Act, vacate their offices so as to enable the Board membership to be appointed or elected in accordance with this Act.
- 4 All assets, rights and liabilities of the Tatiara Drainage Trust in existence immediately before the commencement of this Act vest in the District Council of Tatiara.
- 5 The drains and drainage works vested in the Board immediately before the commencement of this Act continue to be so vested.
- 6 (1) The drains and drainage works in the Eight Mile Creek area vested in the Minister immediately before the commencement of this Act vest in, and are under the care, control and management of, the Board.
(2) The exercise of any powers under the repealed Act by the Minister as the authority for the Eight Mile Creek area and not completed before the commencement of this Act may be completed by the Board under and in accordance with the repealed Act as if it had not been repealed.
- 7 The drains and drainage works vested in the Council immediately before the commencement of this Act continue to be so vested.
- 8 The plans of drains and drainage works lodged with or prepared by the Minister under Part 2 of the repealed Act may continue to be altered by the Minister for the purposes of correcting any error found in any of them.

Legislative history

Notes

- Amendments of this version that are uncommenced are not incorporated into the text.
- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Legislation repealed by principal Act

The *South Eastern Water Conservation and Drainage Act 1992* repealed the following:

South-Eastern Drainage Act 1931

Tatiaria Drainage Trust Act 1949

Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1992	16	<i>South Eastern Water Conservation and Drainage Act 1992</i>	23.4.1992	13.8.1992 (<i>Gazette 13.8.1992 p846</i>)
1995	104	<i>South Eastern Water Conservation and Drainage (Miscellaneous) Amendment Act 1995</i>	14.12.1995	2.5.1996 (<i>Gazette 2.5.1996 p2396</i>)
1996	102	<i>South Eastern Water Conservation and Drainage (Contribution) Amendment Act 1996</i>	19.12.1996	19.12.1996
2002	48	<i>Upper South East Dryland Salinity and Flood Management Act 2002</i>	12.12.2002	Sch 2 (cl 1 & 2)—19.12.2002 (<i>Gazette 19.12.2002 p4736</i>)
2003	35	<i>River Murray Act 2003</i>	31.7.2003	Sch (cl 21)—24.11.2003 (<i>Gazette 20.11.2003 p4203</i>)
2003	44	<i>Statute Law Revision Act 2003</i>	23.10.2003	Sch 1—24.11.2003 (<i>Gazette 13.11.2003 p4048</i>)
2004	34	<i>Natural Resources Management Act 2004</i>	5.8.2004	Sch 4 (cl 41)—1.7.2005 (<i>Gazette 30.6.2005 p2093</i>)
2006	43	<i>Statutes Amendment (Domestic Partners) Act 2006</i>	14.12.2006	Pt 80 (s 195)—1.6.2007 (<i>Gazette 26.4.2007 p1352</i>)

Provisions amended

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Long title	amended by 44/2003 s 3(1) (Sch 1)	24.11.2003
Pt 1		
s 2	<i>deleted by 44/2003 s 3(1) (Sch 1)</i>	<i>24.11.2003</i>
s 3		
eligible landholder	amended by 104/1995 s 3	2.5.1996
River Murray Protection Area	inserted by 35/2003 Sch cl 21(a)	24.11.2003
s 5		
s 5(1)	s 5 redesignated as s 5(1) by 48/2002 Sch 2 cl 1(a)	19.12.2002
s 5(2)—(5)	inserted by 48/2002 Sch 2 cl 1(a)	19.12.2002
s 7A	inserted by 35/2003 Sch cl 21(b)	24.11.2003
Pt 2		
s 11		
s 11(2)	amended by 104/1995 s 4(a)	2.5.1996
s 11(8)	substituted by 104/1995 s 4(b)	2.5.1996
s 11(8a)	inserted by 104/1995 s 4(b)	2.5.1996
s 13		
s 13(1)	substituted by 104/1995 s 5(a)	2.5.1996
s 13(1a) and (1b)	inserted by 104/1995 s 5(a)	2.5.1996
<i>s 13(4)</i>	<i>deleted by 104/1995 s 5(b)</i>	<i>2.5.1996</i>
s 16		
s 16(1)	amended by 104/1995 s 6(a)	2.5.1996
s 16(5)	amended by 104/1995 s 6(b)	2.5.1996
s 17		
s 17(3)	inserted by 34/2004 Sch 4 cl 41	1.7.2005
s 18		
s 18(3a)	inserted by 35/2003 Sch cl 21(c)	24.11.2003
21		
s 21(1)	amended by 48/2002 Sch 2 cl 1(b)	19.12.2002
<i>s 30</i>	<i>deleted by 48/2002 Sch 2 cl 1(c)</i>	<i>19.12.2002</i>
Pt 3		
s 34		
s 34(4)	inserted by 35/2003 Sch cl 21(d)	24.11.2003
s 34A	<i>inserted by 104/1995 s 7</i>	<i>2.5.1996</i>
	<i>substituted by 102/1996 s 2</i>	<i>19.12.1996</i>
	<i>deleted by 48/2002 Sch 2 cl 1(d)</i>	<i>19.12.2002</i>
s 41	amended by 104/1995 s 8	2.5.1996

South Eastern Water Conservation and Drainage Act 1992—1.7.2005 to 31.5.2007

Legislative history

s 42	amended by 104/1995 s 9	2.5.1996
s 43		
s 43(5)	amended by 104/1995 s 10	2.5.1996
s 43(6)	inserted by 35/2003 Sch cl 21(e)	24.11.2003
s 45	amended by 104/1995 s 11	2.5.1996
s 46	amended by 104/1995 s 12	2.5.1996
s 47		
s 47(2)	amended by 104/1995 s 13	2.5.1996
s 48		
s 48(1)	amended by 104/1995 s 14(a)	2.5.1996
s 48(2) and (3)	amended by 104/1995 s 14(b)	2.5.1996
s 49		
s 49(1)	amended by 104/1995 s 15	2.5.1996
s 49(2)	amended by 104/1995 s 15(b)	2.5.1996
Pt 4		
s 50		
s 50(1)	s 50 redesignated as s 50(1) by 102/1996 s 3	19.12.1996
s 50(2)	inserted by 102/1996 s 3	19.12.1996
s 52		
s 52(7)	amended by 104/1995 s 16	2.5.1996
s 53		
s 53(1)	amended by 104/1995 s 17	2.5.1996
54		
s 54(1)	<i>deleted by 104/1995 s 18</i>	2.5.1996
59		
s 59(2)	amended by 104/1995 s 19	2.5.1996
Sch 6	heading amended by 44/2003 s 3(1) (Sch 1)	24.11.2003
Div 1	<i>deleted by 44/2003 s 3(1) (Sch 1)</i>	24.11.2003
Div 2		
heading	<i>deleted by 44/2003 s 3(1) (Sch 1)</i>	24.11.2003

Transitional etc provisions associated with Act or amendments

South Eastern Water Conservation and Drainage (Contributions) Amendment Act 1996

4—Validation of notices relating to 1996/1997 financial year

A notice under section 34A of the principal Act fixing a rate of contribution in respect of the 1996/1997 financial year will not be invalidated on the ground that the notice was published in the Gazette after the commencement of that financial year.

Upper South East Dryland Salinity and Flood Management Act 2002, Sch 2**2—Transitional provisions**

- (1) Subject to subclause (2), all water management works comprising or relating to the Upper South East Project held by SEWCDB, or by any other public authority specified by the Governor by proclamation made for the purposes of this subclause, are vested in the Minister.
- (2) The Governor may, by proclamation, exclude any water management works from the operation of subclause (1).
- (3) Subject to subclause (4), any right or liability of SEWCDB incurred under contracts for or in relation to the construction of water management works for the purposes of the Upper South East Project cease to be rights or liabilities of that body and become rights and liabilities of the Minister.
- (4) The Governor may, by proclamation, exclude any right or liability for the operation of subclause (3).
- (5) The Governor may, by proclamation, vest in the Minister any other asset, right or liability of SEWCDB that should, in the opinion of the Governor, be vested in that Minister for the purposes of this Act.
- (6) The Governor may, by proclamation, direct that a reference in a contract or any instrument or other document to SEWCDB will have effect as if it were a reference to the Minister.
- (7) The Minister may direct that designated staff of SEWCDB assist the Minister in the administration of this Act (and any such direction will have effect according to its terms).
- (8) SEWCDB must, at the direction of the Minister, transfer any money received by SEWCDB under section 34A of the *South Eastern Water Conservation and Drainage Act 1992* (as repealed by this Act) to the Minister, or to another authority, or to an account, specified by the Minister.
- (9) Any contribution levied under section 34A of the *South Eastern Water Conservation and Drainage Act 1992* that has not been paid before the repeal of that section by this Act will, after that repeal, be payable to the Minister instead of to SEWCDB and, in connection with levying that contribution, any scheme established by SEWCDB under that section before its repeal will continue to have effect as if a reference to SEWCDB were a reference to the Minister and on the basis that the Minister may exercise any right of SEWCDB under that scheme after the commencement of this clause, subject to such modifications or qualifications the Minister may direct by notice in the Gazette.
- (10) The vesting of assets, rights and liabilities under this clause operates by force of this clause and despite the provisions of any other law or instrument.
- (11) The Registrar-General or another authority required or authorised under a law of this State to register or record transactions affecting assets, rights or liabilities, or documents relating to such transactions, must, on application under this clause, register or record in an appropriate manner a vesting under this clause.
- (12) The Governor may, by regulation, make any other provision of a saving or transitional nature consequent on the enactment of this Act.

(13) In this clause—

SEWCDB means the South Eastern Water Conservation and Drainage Board established under the *South Eastern Water Conservation and Drainage Act 1992*.

Historical versions

Reprint No 1—2.5.1996

Reprint No 2—19.12.1996

Reprint No 3—19.12.2002

Reprint No 4—24.11.2003