

SOUTH AUSTRALIA

IRRIGATION ON PRIVATE PROPERTY ACT, 1939

*This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at **15 August 1991**.*

It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.

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IRRIGATION ON PRIVATE PROPERTY ACT, 1939

being

Irrigation on Private Property Act, 1939, No. 38 of 1939
[Assented to 21 December 1939]¹

as amended by

Irrigation on Private Property Act Amendment Act, 1949, No. 3 of 1949 [Assented to 15 September 1949]
Irrigation on Private Property Act Amendment Act, 1958, No. 35 of 1958 [Assented to 20 November 1958]
Statutes Amendment (Irrigation Acts) Act, 1978, No. 28 of 1978 [Assented to 30 March 1978]²
Statutes Amendment (Irrigation) Act, 1983, No. 15 of 1983 [Assented to 12 May 1983]³
Irrigation on Private Property Act Amendment Act, 1988, No. 15 of 1988 [Assented to 14 April 1988]⁴

¹ Came into operation 5 January 1940: *Gaz.* 4 January 1940, p. 1.

² Came into operation 3 July 1978: *Gaz.* 29 June 1978, p. 2236.

³ Came into operation 30 June 1983: *Gaz.* 9 June 1983, p. 1625.

⁴ Came into operation 27 June 1988: *Gaz.* 23 June 1988, p. 1980.

Note: Asterisks indicate repeal or deletion of text. For further explanation see Appendix.

An Act to constitute boards of management to exercise certain powers of control, management, and supervision with respect to irrigation and reclamation on and within lands privately owned or occupied adjacent to the River Murray.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I

PRELIMINARY

Short title

1. This Act may be cited as the *Irrigation on Private Property Act, 1939*.

Commencement of Act

2. This Act shall come into operation on a day to be fixed by proclamation.

Arrangement of Act

3. The provisions of this Act are arranged as follows:—

PART I—Preliminary.

PART II—Proclamation of Private Irrigation Areas.

PART III—Constitution of Boards of Management.

PART IV—Meetings of the Boards of Management.

PART V—Duties of Owners and Occupiers.

PART VI—Duties and powers of the Board of Management.

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PART IX—Miscellaneous Provisions.

Definitions

4. In this Act, except where the context or subject matter requires a different construction—

"chairman" means chairman of a board of management:

"channel" includes any irrigation or drainage pipe:

"embankment" means any bank or dyke constructed to protect land from inundation by water from the River Murray:

"irrigable land" means land adjacent to or near the River Murray which is—

- (i) reclaimed or partly reclaimed from being swamp land; or
- (ii) being irrigated or otherwise supplied with water from the River Murray; or
- (iii) capable of being irrigated or otherwise supplied with water from the River Murray, and of being used for primary production:

"private irrigation area" means a private irrigation area proclaimed under this Act:

"member" means a member of the board of management of a private irrigation area:

"Minister" means the Minister of the Crown to whom, for the time being, the administration of the *Irrigation Act, 1930-1978*, is committed by the Governor:

"owner" means—

- (a) the registered proprietor under *The Real Property Act, 1886*, of any estate of freehold in possession:
- (b) as regards land not under *The Real Property Act, 1886*, any person who is seized of any estate of freehold in possession or if the said estate is subject to redemption under any mortgage, the person who, upon payment of all such mortgages, would be entitled to a conveyance of such an estate:
- (c) any person who has agreed to purchase any estate of the nature mentioned in paragraph (a) or (b), and is under the terms of the agreement for purchase entitled to the possession or to receive the rents and profits of the land:
- (d) as regards any land belonging to the Crown, any person who has agreed to purchase the land from the Crown or who is in possession of the land under any lease granted by the Crown:
- (e) any lessee (other than a lessee under a lease granted by the Crown), under-lessee, tenant, or under-tenant, in possession of land pursuant to any lease, under-lease, or agreement for tenancy whereby the land is demised for a term of three years or more:
- (f) any mortgagee in possession who is by himself or his tenant in occupation of any land under any mortgage whether registered under *The Real Property Act, 1886-1936*, or otherwise:
- (g) any trustee and attorney for any such person as beforementioned in this definition who receives or is entitled to receive the rents and profits of the land or who would be entitled to receive the rents and profits if the land were let:

"ratable land" means any land within a private irrigation area for which the board of management for that area has approved a water supply or which is from time to time being supplied with water by that board:

* * * * *

"River Murray" includes any affluent, effluent, anabranch or extension of the River Murray and any river, creek, stream, watercourse, spring, lake, lagoon, swamp, or marsh connected with the River Murray:

"the board" means the board of management of a private irrigation area established under this Act.

PART II

PROCLAMATION OF PRIVATE IRRIGATION AREAS

Petition for constitution of area

5. (1) The owners of land adjacent or near to the River Murray may present to the Minister a petition in the form in the first schedule praying that a private irrigation area be constituted to comprise the part of the State adjacent or near to the River Murray specified in the petition.

(2) The Minister shall not consider any such petition unless he is satisfied—

(a) that in the case of irrigable land which is reclaimed or partly reclaimed from being swamp land—

(i) the petition is signed by one-half or more of the owners of such land within the part of the State proposed to be constituted a private irrigation area; and

(ii) the area of such land owned by the persons by whom the petition is signed is more than one-half of the total area of such land within the part of the State proposed to be constituted a private irrigation area;

(b) that in the case of irrigable land other than land which is reclaimed or partly reclaimed from being swamp land, the petition is signed by all the owners of such land within the part of the State proposed to be constituted a private irrigation area.

Notice of petition

6. If satisfied that the petition complies with the next preceding section the Minister shall cause the petition to be published for three consecutive weeks in the *Gazette*.

Counter-petition

7. (1) Any person or persons may by counter-petition, addressed to the Minister within twenty-one days from the first publication of the original petition show cause against any such petition or any part thereof being granted.

(2) Such counter-petition or petitions shall be published for three consecutive weeks in the *Gazette*.

(3) Publication of the substance and prayer of a petition or counter-petition shall be deemed a sufficient publication of such petition or counter-petition for the purposes of this and the next preceding section.

Inquiry by special magistrate

8. (1) The Minister may appoint a special magistrate to investigate any matter connected with a petition or counter-petition, or to ascertain whether the provisions of this Act have been observed.

(2) The special magistrate shall, for the purpose of any such investigation, have every power of summoning and examining witnesses that may be exercised by a local court of limited jurisdiction, and shall report to the Minister within thirty days, or within such further time as is allowed by the Minister.

(3) Where a special magistrate is so appointed, no proclamation shall be made by the Governor in the matter until a report has been received.

Proclamation of private irrigation area

9. (1) If after considering the petition and any counter-petition and any report made pursuant to section 8, the Governor is satisfied that a private irrigation area should be established, the Governor may, by proclamation, establish the irrigation area, and for such purpose may grant the prayer of the petition or any part thereof with such alterations or modifications as to him appear necessary or expedient.

(2) The proclamation shall—

- (a) assign a name to the private irrigation area:
- (b) define the boundaries of the private irrigation area, which may consist wholly of irrigable land or partly of irrigable land and partly of other lands:
- (c) fix the time and place for the first meeting of the board of management of the private irrigation area.

Petition for addition to private irrigation area

10. (1) The owners of land adjacent to any private irrigation area may present a petition to the Minister in the form in the first schedule (with such modifications as are necessary) praying that the part of the State specified in the petition shall be added to the private irrigation area.

(2) The provisions of subsection (2) of section 5 and sections 6, 7 and 8 shall apply to the petition as if it were a petition praying for the constitution of a private irrigation area.

(3) If, after considering the petition and any counter-petition and any report made pursuant to section 8, the Governor is satisfied that the addition should be made to the private irrigation area the Governor may, by proclamation, add the part of the State specified in the petition, or any portion thereof, to the private irrigation area, but no such proclamation shall be made unless the board of management of the private irrigation area consents thereto.

(4) The Governor may by the said proclamation or any subsequent proclamation, fix any financial obligations to be undertaken by owners of irrigable or ratable land within the part of the State added to the private irrigation area.

Constitution of private irrigation area

11. From and after the publication of any proclamation under this Part the land therein defined shall be a private irrigation area or be added to a private irrigation area, as the case may be, and be subject to the provisions of this Act.

PART III

CONSTITUTION OF BOARDS OF MANAGEMENT

Constitution of board of management

12. The owners of irrigable lands within a private irrigation area are hereby constituted a board of management.

Incorporation of board

13. (1) The board shall be a body corporate under the name of "The Irrigation Board", and shall have perpetual succession and a common seal, and by such name shall be capable of suing and being sued and of purchasing, holding, and leasing land and of doing and suffering subject to this Act all such other acts and things as bodies corporate may by law do and suffer.

(2) Judicial notice shall be taken of the incorporation and of the common seal of the board, and the production of any deed, instrument, or writing, if sealed with the said seal, shall be sufficient evidence of the due making and execution of such deed, instrument, or writing.

(3) The common seal of the board shall be kept at the board's office.

PART IV

MEETINGS OF THE BOARD OF MANAGEMENT

Office

14. The board shall have and maintain a suitable office either within or without the private irrigation area for transacting the business of the board.

First meeting of board

15. The first meeting of the board shall be held at the time and place declared under section 9.

Chairman of board

16. (1) At the first meeting of the board and at every annual meeting the members present shall elect a chairman from among them, and if there is an equal number of votes for two or more members receiving the largest number of votes the person to act as chairman shall be chosen by lot between those members having the equality of votes, but the omission to elect a chairman shall not prevent the board from making such election at any future meeting.

(2) The chairman may resign his office at any time, and any vacancy in the office of chairman may be filled at any meeting of the board.

Secretary of board

17. The board shall appoint a secretary to the board and may appoint such other officers with such powers and duties and upon such terms and conditions as the board may from time to time determine.

Annual meeting

18. An annual meeting of the board shall be held in the month of July next after the publication of the proclamation constituting the private irrigation area and in the month of July in every succeeding year at the office of the board on such day and at such hour as the board determines from time to time.

Ordinary meetings

19. Ordinary meetings of the board shall be held at such times and places as the board from time to time determines.

Special meetings

20. (1) A special meeting may be called by the chairman at any time and on the requisition in writing of any two or more members it shall be his duty to call such meeting.

(2) If the chairman refuses or neglects, or for two clear days after receipt of such requisition fails to call such meeting, then any two members may call such meeting by written notice signed by them posted to each member of the board, such notice stating the object of such meeting, and the time and place of holding the same.

Notice of meetings

21. Three days notice of every meeting, signed by the secretary, shall be delivered or sent by post to every member at the address shown in the assessment book hereinafter referred to, informing him of the time and place of the meeting.

Quorum of meetings

22. (1) At all meetings of the board a majority of the members shall form a quorum.

(2) Any meeting at which there is no quorum shall, at the expiration of half an hour from the time fixed for such meeting, be adjourned to such time as those present at the meeting may determine, and any business which could have been transacted at such meeting may be transacted at the adjourned meeting, and written notice of such adjournment shall be given to members by being posted to each of them not less than three days before the date of such adjourned meeting.

Rights of voting

23. (1) A corporate body being a member of the board may attend meetings and vote by any person authorized under its common seal to attend meetings and vote.

(2) If there is more than one owner of any irrigable land within the private irrigation area all of those owners may attend meetings, but only the owner having the actual physical possession of the land shall vote. If there is more than one owner having such physical possession such owners shall have only such voting rights as are hereinafter provided.

If such owners, by notice in writing, given to the secretary to the board, nominate any one of their number to vote, the owner so nominated (and no other of such owners) shall, until the nomination is cancelled by such owners by notice in writing given to the secretary to the board, be entitled to vote.

If notice as aforesaid is not given, such one of such owners (and no other of such owners) whose name is first in alphabetical progression, first as to surname and then as to Christian names, shall be entitled to vote.

Power to vote

24. (1) Subject to subsection (2) of this section, at every meeting of the board a member shall be entitled to one vote for every acre or part of an acre of irrigable land held by him as appears in the assessment book, and the chairman shall, in addition to his deliberative vote or votes, be entitled to a casting vote in case of equality of votes.

(2) The board may by resolution carried at any meeting by a two-thirds majority of the total number of members of the board resolve that at all future meetings of the board every member shall, irrespective of the number of acres held by him, have one vote only, and any such resolution so carried shall thereafter be binding upon the board.

On the motion for any such resolution every member shall have one vote only.

Notwithstanding that a resolution has been carried under this subsection the chairman shall in addition to a deliberative vote have a casting vote also in case of equality of votes.

Proxy voting

25. (1) Voting shall be personally or by proxy appointed by writing signed by the member.

(2) A proxy must be a member of the board or the husband or wife of a member or a child over the age of twenty-one years of a member.

Absence of chairman or secretary

26. If, in consequence of death, absence, or any lawful impediment it is impossible or inconvenient for the secretary or any member or other person to perform any particular matter or thing which, by this Act, he is required to perform, the chairman, or if, for the like reason, it is impossible or inconvenient for the chairman, the board may perform the matter or thing, or appoint some member or other person to perform it.

Revocation of resolution

27. No resolution passed at any meeting of the board shall be revoked or altered at any subsequent meeting unless written notice of an intention to propose such revocation or alteration is given or posted to each of the members seven days at least before holding the meeting.

Power to appoint committee

28. (1) The board may appoint a committee of its members, and may delegate to any such committee such of its powers and duties under this Act as it thinks fit.

(2) The board may from time to time make such regulations as it thinks fit for the guidance of a committee, and may from time to time remove any members of the committee and appoint, in the stead of any of them, other members of the board.

(3) The proceedings of a committee shall, unless otherwise ordered by the board, require the approval of the board.

* * * * *

(5) At the first meeting of any committee one of its members shall be appointed chairman of the committee, and all questions in committee shall be determined by a majority of votes of the members present; and the chairman shall have a deliberative vote, and in case of equality of votes a casting vote. The chairman of the board shall be *ex officio* a member of every committee.

Minutes

29. (1) The board shall cause minutes of all the meetings of the board, and of every committee thereof, and of the proceedings thereat, with the names of the members who attend at each meeting, and the names of all members voting on any question for the decision of which a division is called, to be duly made in books provided for the purpose, and to be kept by the secretary, under the supervision of the board.

(2) The minutes of every board meeting and of every meeting of a committee, until a report is agreed upon shall be put for confirmation to the next succeeding meeting or, if that is omitted, to some subsequent meeting, and, if found correct, shall be signed by the chairman of the meeting at which the same are confirmed, or if he refuses or neglects to sign for seven days after such meeting, then by any two members present and entitled to vote at such meeting, and the minutes of a committee meeting at which a report is agreed to shall, if found correct, be signed at such meeting or some adjournment thereof.

Minutes admissible as evidence

30. (1) Every minute purporting to be such a minute as aforesaid and to be so signed, or a copy of or extract from any such minute purporting to be attested by the seal of the board and signed by the secretary, shall be received as evidence in all courts and by all judges, bodies corporate and unincorporate, and persons, without proof that the meeting to which the same refers was duly convened or held, or that the persons attending thereat were members of the board or committee, or of the signature of the chairman or members, or of the fact of his having been such chairman, or of their having been members entitled to sign such minutes, or of the affixing of the seal or of the signature of the secretary; but all such matters shall be presumed until the contrary is proved.

(2) All such books shall at all reasonable times be open to the inspection of any member and of any creditor of the board who may take copies of the same at all reasonable times on payment of ten cents to the secretary.

Power to make contracts

31. (1) The board by its corporate name may enter into contracts with any person for the execution of any works directed by this Act to be executed by the board or which the board may think proper to do or direct to be done under or by virtue of the powers conferred upon the board by this Act or any other Act, or for the supply of any matters or things whatsoever necessary for enabling the board to carry the purpose of this Act into full and complete execution, in such manner and upon such terms, and for such sum or sums of money and under such stipulations, conditions, and restrictions as the board thinks proper.

(2) Every such contract may, if the board so thinks fit, specify the person to whose satisfaction the same is to be completed, and the mode of determining any dispute which may arise concerning or in consequence of such contract.

Contracts

32. (1) The powers hereby granted to the board to make contracts may be exercised as follows:—

- I. Any contract which, if made between private persons would be by law required to be in writing and under seal, the board may make in writing in its corporate name under its common seal, and in like manner may vary or discharge the same:
- II. Any contract which, if made between private persons would be by law required to be in writing and signed by the parties thereto, the board may make in writing in its corporate name signed by any two members of the board, and in like manner may vary or discharge the same:
- III. Any contract which, if made between private persons would be by law valid although made by parol only and not reduced into writing, the members of the board or any two of them (of whom the chairman shall be one), acting by direction and on behalf of the board, may make by parol only, without writing, and in like manner may vary or discharge the same.

(2) All contracts so made and duly executed by the parties thereto respectively shall be effectual in law and binding on the board and all other parties thereto, their successors, assigns, executors, or administrators (as the case may be).

(3) In case of default in the execution of any such contract either by the board or by any other party thereto such actions may be instituted, either by or against the board in its corporate name or by or against the other parties failing in the execution thereof, and such damages and costs recovered as might be instituted and recovered had the like contract been made between private persons.

Composition with contractors

33. It shall be lawful for the board from time to time to compound and agree with any person who has entered into any contract with the board, or against whom any action is brought for any penalty contained in any such contract or in any bond or other security for the performance thereof or for or on account of any breach or non-performance of any such contract, bond, or security, for such sum of money or other recompense as the board may think proper.

PART V

DUTIES OF OWNERS

Duties of owners

34. All owners of irrigable land within the private irrigation area shall do or cause to be done all and each of the following acts and things:—

- I. Make and construct all such drains and channels on their irrigable lands and in such manner and of such size or sizes and to such depth and width and with such grades as the board may from time to time direct, and keep all such drains and channels clean and free from weeds, growth, and rubbish, and from any and every obstruction whatsoever, and prevent from being done anything that might hinder or obstruct the free flow or drainage of waters through all or any of such drains or channels or any part thereof:
- II. Make such structures in the channels and drains on their irrigable lands as the board may from time to time direct and keep the same in good order, repair and condition:
 - IIa. If so directed by the board install adequate pumping plant and irrigation equipment (including spray irrigation equipment) in accordance with directions given by the board and keep the same in good order, repair and condition:
- III. Destroy and keep destroyed all vermin and noxious weeds on their respective lands:
- IV. Fence with a suitable fence capable of resisting the ingress and egress of cattle and stock the boundaries of their respective lands, and keep such fences in good and substantial order, repair, and condition:
- V. Preserve in good order, repair, and condition all and any trees and plantations or portions thereof (other than trees and plantations grown for the production of fruit or other produce) which at the time of the coming into operation of this Act within the private irrigation area are in, or which at any time thereafter may come into existence on any lands owned or occupied by them, and will not permit the same to be damaged or destroyed by any person or cattle, and should any such trees die or be destroyed or damaged, replace the same as shall be directed by the board, and tend to and care for the same in a proper manner:
- VI. Erect such syphons over the embankment for the purpose of watering their respective irrigable lands as the board may from time to time direct, and keep the same at all times in good order, repair and condition and effective for the purpose for which they are required:
- VII. Permit officers of the board at all times the free and unrestricted right to enter into and upon their respective lands within the private irrigation area to view and examine the state and condition thereof, and to ascertain whether the owners are duly observing and carrying out all and every obligation and duty imposed on them by this Act:
- VIII. Forthwith comply with, carry out, or give proper effect to every order or direction of the board or its officers given pursuant to this Act.

Restriction on carrying out work

35. No owner shall do or permit to be done any of the acts and things mentioned in section 37 hereof on their respective lands except with the written consent of the board.

No irrigation without consent of board

36. No person shall water or irrigate or permit to be watered or irrigated the whole or any part of any land within the private irrigation area except at such time or times and in such manner as may be directed by the board or its officers appointed for the purpose of regulating such watering or irrigation.

PART VI

DUTIES AND POWERS OF THE BOARD OF MANAGEMENT

Powers of board as to embankment

37. If a private irrigation area consists of or includes irrigable land which is reclaimed or partly reclaimed from being swamp lands or which is subject to inundation by the waters of the River Murray the board shall do or cause to be done all and each of the following acts and things:—

- I. Erect, keep erected and maintained in good order, repair, and condition, an embankment within the private irrigation area at such height or level and conforming to such cross sectional size as may from time to time be determined upon by the board:
- II. Preserve the embankment within the irrigation area intact and effective to resist the ingress of River Murray waters:
- III. Make such bulkheads, sluice gates, or inlets on, in, or through the embankment or lay such pipes through the embankment as may from time to time be determined upon by the board.

Application of Loans to Producers Act, 1927

37a. (1) A board of management may apply for and be granted a loan under the *Loans to Producers Act, 1927-1951*, as if the board were a co-operative society registered under the *Industrial and Provident Societies Act, 1923-1954*, and engaged in rural production.

(2) Any such loan may be granted for the purpose of enabling the board to construct any works or execute any other powers of the board under this Act.

* * * * *

Powers of board

38. The board, in addition to all other powers, may—

- (aa) obtain water for irrigation purposes from such sources and on such terms and conditions as it thinks fit:
- (a) purchase or hire or otherwise acquire on such terms and conditions as it deems expedient, such land, machinery, tools and appliances, goods and chattels as it may from time to time require or deem necessary for the effective reclamation, irrigation, and drainage of the lands within the private irrigation area, and for the supply and distribution of water to owners of such land, and may erect all necessary pumping machinery, plant, and buildings and make and construct all such irrigation works, channels, drains, tanks, sluice gates, syphons, and other works as it may from time to time deem necessary or expedient for the effective working of the private irrigation area:
- (b) determine the height or level and cross-sectional size of the embankment:
- (c) regulate and control all water and pumping operations within the private irrigation area:

- (d) determine the height at which water may or shall be maintained in any channel or drain within the private irrigation area:
- (d1) determine from time to time the maximum area of ratable land which may be irrigated by the owner thereof, and otherwise regulate the supply of water to ratable land:
- (e) enter themselves, or by their officers or agents, upon any lands or premises within the private irrigation area to view and examine the same, and to ascertain whether owners of land within the private irrigation area are observing and performing all and every obligation imposed on them by this Act:
- (f) do all acts, matters, and things which any owner ought to have done under the provisions of this Act but has failed to do:
- (g) make such charges against owners of lands within the private irrigation area and declare such rates on such lands and recover from such owners all such charges and rates in manner by this Act provided:

* * * * *

- (i) appoint officers and servants on such terms and conditions and at such remuneration as the board deems expedient: such officers and servants may be members of the board and all or any part of such remuneration may be retained by the board and credited to the member entitled thereto on account of moneys he may be owing to the board under the provisions of this Act:
- (j) enter themselves, or by their officers, agents, servants, and workmen, into and upon all and any land within the private irrigation area and take and remove soil and material where it deems necessary or advisable for the purpose of carrying out its duties and powers under this Act.

Power of board to order drainage

38a. (1) Subject to subsections (3) and (4) of this section the board may by order in writing served on the owner of any ratable land require him to carry out or cause to be carried out within the time and in accordance with the requirements set out in the notice any works specified in the notice being works for draining or improving the drainage of the said ratable land or for the prevention of possible injury to other land by seepage from the said ratable land.

(2) The order may indicate the times within which the work or any part thereof is to be commenced and completed, and any details as to the place and specifications of the work.

(3) Before making an order under this section the board shall give not less than one month's notice in writing to the owner of the ratable land, stating its intention to make the order and the terms thereof.

(4) If the said owner, within twenty-one days after receipt of the notice gives the board a written notice of objection to the proposed order, the board shall not make the order until it has given the owner an opportunity of submitting to the board information and arguments by way of objection against the making of the order, and has considered any information and arguments so submitted.

PART VII

FINANCE

Power to declare and levy rates

39. (1) The board may, from time to time, declare and levy rates for all or any of the following purposes:—

- I. Defraying the cost of construction of any works carried out or to be carried out by the board pursuant to this Act:
- II Meeting the board's obligations in respect of any money borrowed, or other financial accommodation received, by the board:
- III. Paying the costs and expenses of administration of this Act and of doing anything which the board may lawfully do.

(2) Any such rate may be declared in respect of any period of twelve, six, or three months.

(3) Any such rate shall be a stated amount per acre on the ratable land within the private irrigation area.

(4) Any such rate shall be uniform as regards the whole of the ratable land within the private irrigation area.

* * * * *

Entry of rate in assessment book

40. Whenever a rate is declared the secretary shall make entries in the assessment book showing the amount per acre of ratable land and the date of declaration of the rate and the amount payable by each owner.

Notice to owner

41. The secretary shall give written notice to each owner of ratable land in respect of which rates are payable, of the date of the declaration of every rate, the amount payable by the owner, and the land in respect of which that amount is payable: Provided that where there is more than one owner of any ratable land it shall be sufficient if notice is given to any one of those owners.

Notice before recovery of rates

42. Every rate shall become due and payable when it is declared, but no rate shall be recoverable by action from any person until twenty-one days after a written notice from some officer of the board has been served on that person, informing him of the amount of the rate payable by him, and in respect of what land the rate is payable.

Interest in default of payment

43. (1) If any rate is not paid before the end of three months after it becomes due and payable, interest determined in accordance with this section shall be added to the amount of the rate, and shall thenceforth for all purposes be deemed to be a part of the rate, and shall be paid by the person or persons liable to pay the rate, and be recoverable from any person liable to pay the rate, and in such manner as if it were part thereof: Provided that no such interest shall be added to the amount of any rate payable by a person resident in the State unless the rate has remained unpaid for the space of twenty-one days after notice of the rate has been given to that person.

(2) Where an amount payable by way of rates remains unpaid for three months or more after the day on which the rates became due and payable, interest shall be added to the outstanding amount as follows:

(a) upon the expiration of the first three months, five per centum of the amount then outstanding shall be added to that amount;

and

(b) upon the expiration of each succeeding month, a further one per centum of the total amount then outstanding (including interest) shall be added to that amount.

(3) Where rates became due and payable before the commencement of the *Statutes Amendment (Irrigation) Act, 1983*, and an amount payable by way of those rates or a fine on those rates (or both) remains unpaid for one month or more after the commencement of that amending Act, then, upon the expiration of each month after the commencement of that amending Act, interest of one per centum of the amount then outstanding (including any fine or interest) shall be added to that amount.

Liability of persons appearing in assessment book as owners

44. Every person appearing in the assessment book as the owner of any ratable land shall be liable for all rates declared in respect of that land, notwithstanding any change in the ownership thereof prior to the declaration of the rates, except as to rates declared after he, having ceased to be owner, has given written notice to the secretary of the change of ownership, stating who is the person who has become owner.

Recovery of rates

45. Rates may be recoverable from any person liable to pay them, in the name of the board, by action in any court of competent jurisdiction.

Power to sell land for non-payment of rates

46. The board shall have the same power to sell land for non-payment of rates as a district council has under Part XIV. of the *Local Government Act, 1934-1938*, and that Part of that Act shall *mutatis mutandis* apply to the board as if the board were a district council and the secretary of the board were a clerk of a district council: Provided that if any land is sold by the board pursuant to the powers given by this section and a memorandum of transfer is registered or a certificate of title is issued as provided in section 276 of the said Act, the provisions of the said section 276, which provide that the registration of the memorandum of transfer or issue of the certificate of title shall vest in the purchaser an indefeasible estate in fee simple free from any mortgage, lease, tenancy, encumbrance, or charge, shall apply only to any such mortgage, lease, tenancy, encumbrance, or charge which is granted after the date upon which the Royal Assent is given to this Act.

Limitation of liability of trustee, agent or attorney

47. No trustee, agent, or attorney for any owner of ratable land shall be liable to pay any money recovered or penalty imposed under the provisions of this Act in excess of the amount then in his hands or under his control and belonging to his *cestui que* trust.

Power to borrow, etc.

48. (1) The board may borrow money or take advantage of any other form of financial accommodation.

(2) In order to provide security for any money borrowed, or other financial accommodation received, by it, the board may—

(a) charge the whole or any part of its property (including its rate revenue) by debenture, mortgage or bill of sale or in any other manner;

or

(b) enter into arrangements for the provision of guarantees or indemnities.

(3) If the board defaults in carrying out its obligations under a debenture charged on the rate revenue of the board, the Supreme Court may, on the application of a creditor or a trustee for debenture holders—

(a) (i) direct the board to appropriate a specified portion of its revenue to the satisfaction of its obligations under the debenture;

or

(ii) direct the board to raise a specified amount by way of rates and direct that the amount raised be applied towards satisfaction of the board's obligations under the debenture;

and

(b) give such incidental or ancillary directions as may be necessary or desirable.

(4) The rights of a creditor or trustee under subsection (3) are in addition to any other right that exists independently of that subsection.

* * * * *

Banking of money

50. (1) All money received on account of the board shall be paid into a bank appointed by the board.

(2) Payment into the bank shall in every case be made as soon as the moneys in hand amount to ten dollars or more.

(3) Every payment of two dollars or more made on behalf of the board shall be by cheque on the bank, drawn by the chairman and by a member authorized from time to time by the board in that behalf, or in case of the absence of the chairman, drawn by two members authorized from time to time by the board and in each case countersigned by the secretary.

(4) Payments of less than two dollars may be made out of a petty cash fund, replenished from time to time by cheques drawn and countersigned as aforesaid.

Accounts

51. The board shall cause to be kept full and accurate accounts of all money received and expended under the provisions of this Act.

Audit of Accounts

52. The board shall cause such accounts to be audited at least once in every year and also as often as it deems it advisable so to do, and for that purpose may appoint an auditor or auditors and pay him or them such remuneration and expenses as are necessary.

Liability for rates

53. (1) Any owner liable for the payment of moneys under section 55 of this Act and any owner liable for payment of rates under this Act shall continue liable for the payment of such moneys and rates with interest charged thereon, notwithstanding any change in the ownership of the land in respect whereof the moneys or rates and interest are payable except as to rates declared after he, having ceased to be an owner, has given written notice to the board of that fact stating who is the person who has become owner.

(2) Until paid all moneys payable under section 55 of this Act and all rates declared pursuant to this Act and all interest charged thereon or any portion thereof unpaid shall be a charge upon the ratable land in respect whereof the moneys or rates and interest are payable notwithstanding any change in the ownership of the said land.

PART VIII

THE ASSESSMENT BOOK

Assessment book to be kept

54. (1) The board shall cause to be kept a book or record in this Act called the assessment book, wherein shall be recorded the name, address, and occupation of each owner of land within the private irrigation area and the area of ratable land owned by each owner.

(2) At the establishment of a private irrigation area under the provisions of this Act the particulars required for such assessment book shall be obtained from and be similar to those set out in the petition referred to in the first schedule to this Act.

(3) Thereafter every owner of land within the private irrigation area shall from time to time notify the board in writing of any change in ownership of such land and change of any address.

(4) The board may, from time to time, rectify all errors and omissions in the assessment book.

(5) If at any time the board is satisfied—

(a) that the assessment book does not accurately show the area of ratable land owned by any owner; or

(b) that any person has ceased to be or has become the owner of any land within the private irrigation area; or

(c) that any person appearing in the assessment book as the owner of any land within the private irrigation area is not the owner thereof,

the board shall alter the assessment book accordingly.

PART IX

MISCELLANEOUS PROVISIONS

Owner in default

55. (1) If any owner of irrigable or ratable land within the private irrigation area makes default in the due observance or performance of all or any of the obligations imposed on him under the provisions of this Act, then and in such case, the board may do or cause to be done, the act, matter or thing with respect to which default has been made, and all costs and expenses thereby incurred by the board together with interest thereon at the rate of five dollars per centum per annum calculated from the time the cost or expense was incurred by the board shall be deemed to be a debt due and owing by such defaulting owner to the board, and shall be forthwith recoverable by the board from such owner in any court of competent jurisdiction.

(2) An owner shall be deemed to have made default under the preceding subsection hereof if and when he fails to carry out or give effect to a notice containing any order or direction or orders or directions of the board lawfully made under the provisions of this Act and within the time stated in such notice.

(3) A notice requiring an owner to do or cause to be done or cease from doing any act, matter, or thing shall be deemed to have been duly given if the same is in writing and either delivered to such owner personally or posted to him in a prepaid envelope addressed to him at the address given in the assessment book.

Board's right of access

56. Every owner of land within the private irrigation area shall permit the board and its officers and servants free and unrestricted right of access to, over, and across all land within the private irrigation area for the purpose of carrying out all or any of the provisions of this Act.

Board not liable for damages

57. The board shall not be liable for any penalty or damage resulting to any owner of land within the private irrigation area in consequence of any act, matter or thing done, or purporting to be done, or omitted to be done, by the board, its servants, or agents, pursuant to the provisions of this Act.

Watering without approval of board

58. Any person who brings any water or permits any water to be brought on to his land within the private irrigation area without the approval of the board shall be liable to a penalty not exceeding one hundred dollars for every such offence.

Unlawful damage to works

59. Any person who unlawfully destroys or injures any irrigation work, or any part thereof, within the private irrigation area shall, on conviction, be liable to a penalty not exceeding two hundred dollars, and to imprisonment for any period not exceeding twelve months either in addition to or in substitution for the said pecuniary penalty.

Taking water without approval

60. Any person who takes or uses any water from any channel or drain within a private irrigation area without the approval of the board shall be liable to a penalty not exceeding one hundred dollars.

Rubbish, etc., put in channels, etc.

61. If any person throws or conveys or causes or permits to be thrown or conveyed any rubbish, dirt, filth, or other noisome thing into any channel or drain within a private irrigation area, he shall be liable to a penalty not exceeding one hundred dollars.

Obstructing board or its officers

62. Any person who obstructs the board or any of its officers or servants in the performance of anything which they are respectively empowered to do by this Act shall be liable to a penalty not exceeding one hundred dollars.

Offences

63. Where any matter or thing is under this Act, or by any order or notice made and published under the authority hereof, directed or forbidden to be done, or where any authority is given by this Act to any person to direct any matter or thing to be done, or forbid any matter or thing to be done, and such act so directed to be done, remains undone, or such act so forbidden to be done is done, in every such case every person offending against such direction or prohibition shall be deemed guilty of an offence against this Act.

Penalties for offences

64. Every person guilty of an offence against this Act shall be liable to the penalty expressly imposed by this Act and, if no specific penalty is imposed, to a penalty not exceeding one hundred dollars.

Penalty not to exclude payment for damages

65. Every penalty imposed on any person under this Act shall be in addition to the sum which he may be lawfully adjudged liable to pay to the board or any person for any damage sustained, and the payment of the penalty shall not bar or affect the right of the board or any person to bring an action against such person for such damage.

Service of summons, etc., on board

66. Any summons, notice, writ, or other proceeding may be served on the board by being given personally to the chairman or secretary, or at the board's office to some officer of the board there.

Seal not necessary on orders, etc.

67. Every order, notice, authorization, permit, or other document requiring to be authenticated by the board may be sufficiently authenticated without the common seal of the board, if signed by the chairman, by two members, or by the secretary.

Officer may represent board

68. In the event of any person against whom the board has any claim or demand being adjudicated bankrupt or making a statutory assignment for the benefit of or composition with his creditors, any officer of the board appointed by the chairman, in writing under his hand, may represent the board in all proceedings relating to the bankruptcy or assignment of the estate of such person as if such claim or demand had been the claim or demand of such officer.

Summary proceedings

69. All proceedings in respect of offences against this Act shall be disposed of summarily.

Protection of members

70. (1) No member of the board shall be subject to be sued or prosecuted by any person, and the body, goods, or land of a member shall not be liable to execution of any legal process by reason of any contract or other instrument entered into by the board, or by reason of any other lawful act done by the board in the execution of any of its powers.

(2) Every member, his executors, administrators, or assigns, shall be indemnified by the board for all payments made or liabilities incurred in respect of any acts done by him for and on behalf of the board and of all losses, costs, and damages which he may incur in the *bona fide* execution of the powers conferred upon him by this Act as a member of the board acting for and on behalf of the board.

Assessment book admissible as evidence

71. The assessment book or any copy or extract therefrom certified as a true copy or extract under the hand of the chairman or the secretary shall be admissible in evidence in any legal proceedings, and any statement appearing therein shall be deemed to be proved in the absence of evidence to the contrary.

Minutes of board admissible as evidence

72. Minutes of the board or any committee thereof, and contracts, specifications, plans, estimates, and other documents in the hands of the board by this Act required or authorized and any copy thereof or extract therefrom purporting to be signed by the chairman or the secretary shall be receivable in any proceedings before any court or person as evidence of the matters therein contained.

Regulations

73. The Governor may on the recommendation of the board of a private irrigation area make regulations prescribing any matters necessary or convenient to be prescribed for the administration and enforcement of this Act in and with respect to such area and persons and property therein. Any such regulations may prescribe fines recoverable summarily for breaches of any such regulations not exceeding fifty dollars and in the case of a continuing breach an additional ten dollars for each day on which the breach continues.

SCHEDULES

THE FIRST SCHEDULE

PETITION FOR THE CONSTITUTION OF A PRIVATE IRRIGATION AREA

To the Minister [*here set out title of Minister.*], Adelaide.

We, the undersigned owners of privately owned lands adjacent to the River Murray, hereby request that the lands hereunder enumerated be declared a private irrigation area under the provisions of the *Irrigation on Private Property Act, 1939*, under the name of "The Irrigation Area". The boundaries of the land proposed to be included in such area are

The names, addresses, and occupations of all persons owning lands within the proposed area, with particulars of their respective holdings are as follows:—

Name of Owner	Address	Occupation	Whether Owner or Lessee and Nature of Title	If Lessee, Date of Expiration of Existing Lease	Section No.
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Hundred	Area of Irrigable Land Within the Private Irrigation Area	Area of Other Land Within the Private Irrigation Area
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We hereby certify that the particulars set opposite our respective names above are true and correct.

Signatures— Witness

Dated this day of 19

PETITION FOR ADDITION OF LAND TO A PRIVATE IRRIGATION AREA

To the Minister [*here set out title of Minister.*], Adelaide.

We, the undersigned owners of privately owned lands adjacent to the River Murray, do hereby request that the lands hereunder enumerated be added to the Irrigation Area, and form part thereof, pursuant to section 10 of the *Irrigation on Private Property Act, 1939.*

The boundaries of the land proposed to be thus added are

The names, addresses, and occupations of all owners of lands thus proposed to be added, with particulars of their respective holdings are as follows:—

Name of Owner	Address	Occupation	Whether Owner or Lessee and Nature of Title	If Lessee, Date of Expiration of Existing Lease	Section No.
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Hundred	Area of Irrigable Land Proposed to be Added	Area of Other Land Proposed to be Added
---------	--	--

We hereby certify that the particulars set opposite our respective names above are true and correct.

Signatures—

Witness

Dated this day of 19 ...

* * * * *

APPENDIX

Legislative History

Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 5 of The Public General Acts of South Australia 1837-1975 at page 253.

Section 4:	definition of "Minister" substituted by 28, 1978, s. 35
Section 37a(3):	repealed by 15, 1988, s. 3
Section 38:	amended by 15, 1988, s. 4(a)
Section 38(h):	repealed by 15, 1988, s. 4(b)
Section 39(1):	amended by 15, 1988, s. 5(a)
Section 39(5):	repealed by 15, 1988, s. 5(b)
Section 43:	amended and redesignated as s. 43(1) by 15, 1983, s. 10
Section 43(2) and (3):	inserted by 15, 1983, s. 10(c)
Section 48:	substituted by 15, 1988, s. 6
Sections 48a and 49:	repealed by 15, 1988, s. 6
First schedule:	amended by 28, 1978, s. 36
Second schedule:	repealed by 15, 1988, s. 7