

SOUTH AUSTRALIA

RENMARK IRRIGATION TRUST ACT 1936

*This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at **11 October 1999**.*

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.

SUMMARY OF PROVISIONS

**PART 1
PRELIMINARY**

1. Short title
2. Commencement
3. Consolidation and repeal
4. Arrangement
5. Interpretation

**PART 2
CONSTITUTION OF THE TRUST**

6. Continuance of trust
7. Common seal
8. District of the trust
9. Purposes of trust

**PART 3
MEMBERS, AUDITORS, AND ELECTIONS**

DIVISION 1—MEMBERS

10. Members
11. Qualification of members of trust
12. Qualified persons compellable to serve
13. Vacancies
14. Annual retirement of members
15. Chairman not to draw lots
16. Retiring members to hold office until successors appointed
17. Lots to be before notice of nomination
18. Procedure on failure of members to draw lots
19. Vacancies existing at the annual election
20. Retiring member eligible for re-election
21. Chairman's and members' fees

DIVISION 2—AUDITORS

22. Election and retirement of auditors
23. Qualification of auditors
24. Vacancies in the office of auditor
25. Auditing accounts
26. Balance-sheet to be sent to owners and occupiers
27. Persons to be present at auditing accounts

DIVISION 3—ELECTIONS

28. Returning officer
29. Day of nomination
30. Form of nomination, and time for lodging
31. Proceedings on day of nomination
32. Notices of adjournment to be given
33. Procedure on failure of annual election and on extraordinary vacancy
34. Proceedings on supplementary election
35. Notices of adjournment
36. Proceedings in case of failure or avoidance of supplementary election
37. Retirement of persons elected to fill extraordinary vacancies
38. Notice of election
39. Procedure where trust fails to hold election

**PART 4
MANAGEMENT OF THE TRUST**

- 40. Trust office
- 41. Election of chairman
- 42. Secretary
- 43. Annual meeting
- 44. Ordinary and special meetings
- 45. Special meetings
- 46. Notice of meeting
- 47. Quorum
- 48. Chairman
- 49. Business of trust to be carried on notwithstanding vacancy
- 50. Proceedings of trust valid notwithstanding defect of appointment, etc.
- 51. Inability of secretary, etc., to perform duties
- 52. Business falling on Sunday, etc.
- 53. Resolutions, how revoked or altered
- 54. Committees
- 55. Power to delegate powers to chairman
- 56. Minutes of meetings
- 57. Minute books and certified extracts therefrom evidence

**PART 5
GENERAL POWERS OF THE TRUST**

- 58. Effect of this Act on water rights and correlative obligations
- 59. Distribution of water by trust
- 60. Trust may lay pipes for supply to townships
- 61. Limitation on supply of water to persons other than ratepayers
- 62. Property in water
- 63. Irrigation works not taxable
- 64. Supply of water to persons otherwise not entitled thereto
- 65. Power of trust to expend moneys for certain purposes
- 65A. Power to declare non-ratable land
- 65B. Payments before supplying of water to new land
- 65C. Power of trust to order method of irrigation
- 65D. Power of trust to order drainage
- 65E. Power to construct embankments
- 66. Procedure on subdivision of land
- 67. Modes in which trust may make, vary, and discharge contracts
- 68. Power to compound claims
- 69. Power to contract with other bodies or persons in certain cases
- 70. Power to let, manage, and improve property
- 71. Power to establish superannuation funds, etc.
- 72A. Control of subdivision of irrigated land
- 72B. Power of Trust to acquire land
- 72C. General powers of trust
- 72D. Power of trust to construct drains across roads
- 73. By-laws
- 74. No by-law to be repugnant to any laws in force
- 75. By-law not to exempt from proceedings for nuisance
- 76. Approval of regulations and by-laws
- 77. Minister may amend or revoke regulations and by-laws

**PART 6
ASSESSMENTS**

- 78. Assessment-book
- 79. New assessment to be made by assessors
- 80. Power to adopt previous assessment
- 81. Persons may have their names removed on change of ownership or occupation
- 82. Insertion of names in assessment
- 83. Power to rectify assessment-book
- 84. Notice of assessment
- 85. Appeal against assessment
- 86. Hearing of appeals
- 87. Time for appealing
- 88. Production of assessment book
- 89. Appeals from decision of trust
- 90. Costs of appeal

**PART 7
RATES**

- 91. Rate estimate
- 92. Rates
- 93. Purposes of general rate
- 94. Purposes of special rate
- 95. Rate to be entered in part 2 of assessment book
- 96. Public notice of making of rate
- 97. Moneys to be deposited
- 98. Person liable to pay rates
- 99. Twenty-one days' notice to be given before recovery of rates
- 100. Interest in default of payment of rate
- 101. Liability of persons appearing in assessment book as owners
- 102. Rates, how recoverable
- 103. Procedure when rates in arrear
- 104. Power to let land for payment of rates
- 105. Power of sale
- 106. Transfer to have effect as ordered
- 107. Properties comprised in different assessments may be included in one petition
- 108. Previous sales validated
- 109. Notice of application a condition precedent
- 110. After once offered for sale and unsold, lands may be sold privately
- 111. Application of proceeds
- 112. Transfer to purchaser
- 113. Clerk of local court may act as auctioneer
- 114. Power to lease property for arrears of rates

**PART 9
LOANS**

- 122. Power to borrow
- 123. Provision for grant of loans to trust
- 123A. Provision for further grant and loans to trust
- 123B. Provision for further grant for irrigation works and drainage
- 123BA. Loan for irrigation and water drainage
- 123BB. Loan for domestic water supply
- 123BC. Appropriation
- 123BD. Loan and grant for various purposes
- 123C. Arrangements for payments to trust
- 123D. Trust to keep special account
- 124. Consent of ratepayers not required to special rate
- 124A. Payment to trust on subdivision of ratable land

Renmark Irrigation Trust Act 1936

**PART 10
SALE AND LEASING OF LAND**

The Renmark Allotment Board

- 125. Constitution and appointment of allotment board
- 126. Nomination of members of board
- 127. Appointment without nomination on failure to nominate
- 128. Casual vacancies

Proceedings and Functions of the Board

- 129. Defects in appointment not to invalidate proceedings of board
- 130. Meetings of board
- 131. Quorum
- 132. Chairman
- 133. Who to preside at meetings
- 134. Member not to sit at meeting to consider application by himself or his partner or relative
- 135. Allotment in contravention of section 134 void
- 136. Powers and duties of board
- 137. Power to require evidence to be upon oath
- 138. Power to administer oath or affirmation
- 139. Punishment for perjury before the board

Certain Land vested in the Trust

- 140. Certain land vested in trust in fee simple
- 141. Land to be offered for sale

Trust may grant Leases of certain Land

- 142. Certain land may be leased by trust

Allotment of Lands by Trust

- 143. Notice of lands offered
- 144. Simultaneous applications
- 145. How simultaneous applications to be dealt with
- 146. Other things being equal, Renmark settler to be preferred
- 147. Board to report, and successful applicants to be gazetted
- 148. Power to offer lands not taken

Terms and Conditions of Agreements and Leases

- 149. Agreement to purchase
- 150. Agreement liable to forfeiture
- 151. Terms and conditions of lease

**PART 11
RATEPAYERS' MEETINGS, ELECTIONS, AND POLLS**

- 152. Ratepayers' meetings
- 153. General provision for voting at ratepayers' meetings
- 154. General provisions for voting at elections and polls
- 155. Payment of rates before voting
- 156. Powers of returning officer
- 157. What shall be deemed acts of bribery and corruption

- 158. Any of the above acts to disqualify
- 159. Principals bound by acts of their agents
- 160. Acts of bribery and corruption by person not being the authorised agent
- 161. Penalty on persons receiving or offering reward for voting or withholding vote
- 162. No action against candidate for costs or expenses of election
- 163. Provision in the event of impediments of a formal nature

**PART 12
MISCELLANEOUS**

- 164. Limitation of liability to make compensation
- 165. Compensation determined by Land and Valuation Court
- 166. Procedure and powers of court
- 168. Incomplete works
- 169. Principles in awarding compensation
- 170. One sum may be awarded for all interest affected
- 171. Trust not liable for accidental failure of supply
- 172. Free passage to be given to supply water
- 173. Penalty for illegally diverting water
- 174. Penalty for destruction of works
- 175. Penalty for unlawful injury of property
- 175A. Private works
- 175B. Connection of private drains
- 176. Penalty for unlawfully taking water
- 177. Notification of waters required to be kept free
- 178. Penalty for nuisance in irrigation area
- 179. Disqualified person acting as member or auditor
- 180. Disqualified person to give notice of disqualification
- 181. Person elected member refusing to act
- 182. Person elected as member and failing to defend his title to the office
- 183. Penalty on minors voting at elections or acting as members
- 184. Shareholder in company which is interested, voting
- 185. Penalty for obstructing trust, officers, etc.
- 186. Persons examined on oath, etc., making false statement
- 187. Forgery
- 188. Persons publishing false statements in *Gazette*
- 189. Non-performance of provisions of this Act
- 190. Penalty for offence against this Act
- 191. Power to remit fines
- 192. Conviction not to bar action
- 193. Service of notices and demands
- 194. Penalties exclusive of other damages
- 195. Service of notices and legal proceedings
- 196. Authentication of documents by the trust
- 197. Representation of trust in cases of bankruptcy
- 198. Representation of trust before justices and in local court
- 199. Reimbursement of officer
- 200. Powers of entry by officers of trust
- 201. No writ of *quo warranto* allowed to try title to any office
- 202. No *mandamus* to issue from Supreme Court
- 203. Proceedings for trying title of member, etc.
- 204. Jurisdiction of court
- 205. Procedure on non-compliance with order
- 206. Time within which proceedings may be taken
- 207. Complaints
- 208. Magistrate not disqualified because a ratepayer
- 209. Recovery of penalties
- 210. On non-payment of penalties, etc., justice may imprison
- 211. Prosecution of officers
- 212. Actions against members
- 213. *Gazette* evidence of appointments and elections notified therein

Renmark Irrigation Trust Act 1936

-
- 214. *Gazette* evidence of resolution of trust notified therein
 - 215. *Gazette* conclusive evidence of proclamation and *prima facie* evidence of facts stated therein
 - 216. Assessment book and certified copies of or extracts therefrom made evidence
 - 217. *Gazette* containing notice of the making of a rate conclusive evidence
 - 218. Ratepayers entitled to signed copy of by-laws on payment of one dollar
 - 219. By-laws, minutes, contracts, etc., or certified copies, evidence
 - 220. Saving of rules of evidence
 - 221. Limitation of liability of trustee, agent, or attorney
 - 222. Declarations
 - 223. Advertisements to be paid for by trust
 - 224. Preservation of rights
 - 224A. Power to include portions of district in water districts under Waterworks Act
 - 225. Commonage for municipality of Renmark
 - 225A. Power to grant channel land to trust
 - 226. Validation of certain order, proclamation, and leases and agreements for sale and purchase
 - 227. Amendment of Insolvent Act 1886

SCHEDULE 1

Acts Consolidated and Repealed

SCHEDULE 2

Nomination of Member

SCHEDULE 3

Renmark Irrigation District Assessment Book

SCHEDULE 4

Notice of Assessment

SCHEDULE 5

Notice of Appeal from Assessment

SCHEDULE 7

Notice of General or Special Rate

SCHEDULE 8

Notice of Letting or Selling Land for Arrears of Rates

SCHEDULE 9

Notice to Owners, etc.

APPENDIX

LEGISLATIVE HISTORY

RENMARK IRRIGATION TRUST ACT 1936

being

Renmark Irrigation Trust Act 1936 No. 2319 of 1936
[Assented to 26 November 1936]¹

as amended by

Renmark Irrigation Trust Act Amendment Act 1945 No. 26 of 1945 [Assented to 20 December 1945]
Renmark Irrigation Trust Act Amendment Act 1946 No. 46 of 1946 [Assented to 19 December 1946]
Renmark Irrigation Trust Act Amendment Act 1948 No. 40 of 1948 [Assented to 16 December 1948]
Renmark Irrigation Trust Act Amendment Act 1950 No. 45 of 1950 [Assented to 30 November 1950]
Renmark Irrigation Trust Act Amendment Act 1952 No. 9 of 1952 [Assented to 9 October 1952]²
Renmark Irrigation Trust Act Amendment Act 1954 No. 28 of 1954 [Assented to 2 December 1954]
Renmark Irrigation Trust Act Amendment Act 1956 No. 45 of 1956 [Assented to 22 November 1956]
Renmark Irrigation Trust Act Amendment Act 1957 No. 33 of 1957 [Assented to 7 November 1957]
Renmark Irrigation Trust Act Amendment Act 1958 No. 55 of 1958 [Assented to 27 November 1958]
Renmark Irrigation Trust Act Amendment Act 1959 No. 31 of 1959 [Assented to 3 December 1959]³
Renmark Irrigation Trust Act Amendment Act 1963 No. 31 of 1963 [Assented to 21 November 1963]
Renmark Irrigation Trust Act Amendment Act 1966 No. 15 of 1966 [Assented to 24 February 1966]
Renmark Irrigation Trust Act Amendment Act (No. 2) 1966 No. 83 of 1966 [Assented to 1 December 1966]
Renmark Irrigation Trust Act Amendment Act 1969 No. 60 of 1969 [Assented to 4 December 1969]⁴ (as amended by Statute Law Revision Act 1973 No. 77 of 1973 [Assented to 6 December 1973])
Age of Majority (Reduction) Act 1971 No. 15 of 1971 [Assented to 8 April 1971]⁵
Renmark Irrigation Trust Act Amendment Act 1971 No. 90 of 1971 [Assented to 25 November 1971]⁶
Renmark Irrigation Trust Act Amendment Act 1972 No. 100 of 1972 [Assented to 9 November 1972]⁷
Statute Law Revision Act 1973 No. 77 of 1973 [Assented to 6 December 1973]
Renmark Irrigation Trust Act Amendment Act 1977 No. 17 of 1977 [Assented to 5 May 1977]
Statutes Amendment (Irrigation Acts) Act 1978 No. 28 of 1978 [Assented to 30 March 1978]⁸
Renmark Irrigation Trust Act Amendment Act 1978 No. 60 of 1978 [Assented to 21 September 1978]
Renmark Irrigation Trust Act Amendment Act 1984 No. 14 of 1984 [Assented to 3 May 1984]⁹
Renmark Irrigation Trust Act Amendment Act 1985 No. 9 of 1985 [Assented to 7 March 1985]¹⁰
Real Property Act Amendment Act 1990 No. 9 of 1990 [Assented to 12 April 1990]¹¹
Renmark Irrigation Trust Act Amendment Act 1990 No. 64 of 1990 [Assented to 13 December 1990]¹²
Criminal Law Consolidation (Felonies and Misdemeanours) Amendment Act 1994 No. 59 of 1994 [Assented to 27 October 1994]¹³
Financial Sector Reform (South Australia) Act 1999 No. 33 of 1999 [Assented to 17 June 1999]¹⁴
Electricity (Miscellaneous) Amendment Act 1999 No. 60 of 1999 [Assented to 19 August 1999]¹⁵

NOTE:

- Asterisks indicate repeal or deletion of text.
- Entries appearing in bold type indicate the amendments incorporated since the last reprint.
- For the legislative history of the Act see Appendix.

- ¹ Came into operation 1 June 1937: *Gaz.* 25 March 1937, p. 643.
- ² Came into operation 1 August 1952: s. 4.
- ³ Ss. 1-3, 5, 7, 9, 11-13, 16, 17 and 20 came into operation on assent: s. 3(1); ss. 4, 6, 8, 10, 14, 15, 18 and 19 came into operation 1 July 1960: *Gaz.* 16 June 1960, p. 1588.
- ⁴ Came into operation 21 May 1970: *Gaz.* 21 May 1970, p. 1841.
- ⁵ Came into operation 15 April 1971: *Gaz.* 15 April 1971, p. 1598.
- ⁶ Came into operation 20 April 1972: *Gaz.* 20 April 1972, p. 1497.
- ⁷ Came into operation 23 November 1972: *Gaz.* 23 November 1972, p. 2406.
- ⁸ Came into operation 3 July 1978: *Gaz.* 29 June 1978, p. 2236.
- ⁹ Came into operation 24 May 1984: *Gaz.* 24 May 1984, p. 1261.
- ¹⁰ Came into operation 21 March 1985: *Gaz.* 21 March 1985, p. 864.
- ¹¹ Came into operation 21 May 1990: *Gaz.* 17 May 1990, p. 1358.
- ¹² Came into operation 1 January 1991: *Gaz.* 13 December 1990, p. 1755.
- ¹³ Came into operation 1 January 1995: *Gaz.* 8 December 1994, p. 1942.
- ¹⁴ Schedule (item 44) came into operation 1 July 1999: being the date specified under section 3(16) of the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999* of the Commonwealth as the transfer date for the purposes of that Act.
- ¹⁵ **Schedule came into operation 11 October 1999: *Gaz.* 30 September 1999, p. 1341.**

Renmark Irrigation Trust Act 1936

An Act to consolidate certain Acts relating to the Renmark Irrigation Trust.

The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY**

Short title

1. This Act may be cited as the *Renmark Irrigation Trust Act 1936*.

Commencement

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

Consolidation and repeal

3. This Act is a consolidation of the Acts mentioned in schedule 1, and the said Acts are hereby repealed.

Arrangement

4. The provisions of this Act are arranged as follows:

PART 1—PRELIMINARY.

PART 2—CONSTITUTION OF THE TRUST.

PART 3—MEMBERS, AUDITORS, AND ELECTIONS:

DIVISION 1—MEMBERS:

DIVISION 2—AUDITORS:

DIVISION 3—ELECTIONS.

PART 4—MANAGEMENT OF THE TRUST.

PART 5—GENERAL POWERS OF THE TRUST.

PART 6—ASSESSMENTS.

PART 7—RATES.

PART 9—LOANS.

PART 10—SALE AND LEASING OF LAND.

PART 11—RATEPAYERS' MEETINGS, ELECTIONS, AND POLLS.

PART 12—MISCELLANEOUS.

Interpretation

5. In this Act, except where inconsistent with the context or subject-matter—

"**agreement**" means an agreement entered into under Part 10 or under *The Renmark Irrigation Trusts Acts Further Amendment Act 1914* containing a covenant to purchase land;

"**board**" means the Allotment Board referred to in Part 10;

"**business day**" means any day not being a Sunday, Good Friday, Christmas Day, or public or bank holiday;

"**Chaffey Brothers, Limited**" includes persons lawfully claiming through Chaffey Brothers, Limited;

"**chairman**" means the chairman of the trust;

"**district**" means the Renmark Irrigation District;

"**drain**" includes any pipe, channel or sump and any shaft or bore used for the disposal of seepage water;

"irrigation works" means all watercourses, machinery, drainage works, waterworks and other property and improvements constructed or brought upon or established in connection with the district and for irrigation or drainage purposes;

"member" means a member of the trust;

"Minister" means the Minister of the Crown to whom for the time being the administration of this Act is committed by the Governor;

"owner", as regards land, includes the person for the time being receiving or entitled to receive the rents and profits of any ratable land, whether on his own account or as trustee, attorney, or agent for another;

"public notice" means notice given by advertisement in a newspaper circulating in the district, and by posting handbills on every place in the district appointed by the trust as a place for posting notices;

"ratable land" means all land within the district available for irrigated culture under the system of irrigation works for the time being established for the service of land in the district, except—

- (a) land that is, in one block, less than 0.5 of a hectare and does not form part of a single holding that is more than 0.5 of a hectare; and
- (b) land that is declared by the trust to be non-ratable land; and
- (c) land that is a township allotment;

"rate" means a rate declared under the powers given by this Act or any repealed Act;

"ratepayer" means the owner or occupier of ratable land or the owner of unoccupied ratable land, and whose name appears in the assessment-book in respect of that land;

"repealed Act" means any Act repealed by this Act;

"secretary" means the secretary of the trust;

"single holding" means any continuous area of land, or any two or more parcels of land separated only by roads, track or channels, situated within the district and occupied and used by the same person as a single vineyard, orchard or garden;

"township allotments" means land laid out as township allotments whereof a subdivision plan has been lodged in the Lands Titles Registration Office pursuant to *The Real Property Act 1886*;

"the Land and Valuation Court" means the Land and Valuation Court constituted under the *Supreme Court Act 1935-1969*;

"trust" means the Renmark Irrigation Trust.

Renmark Irrigation Trust Act 1936

**PART 2
CONSTITUTION OF THE TRUST**

Continuance of trust

6. (1) The trust called "The Renmark Irrigation Trust" is hereby continued.

(2) The trust shall continue to be a body corporate, and shall have perpetual succession, and shall by its corporate name be capable of suing and being sued, of purchasing, holding, and alienating land, of doing all acts necessary or expedient for carrying out the purposes of this Act, and of doing and suffering, subject to this Act, all such other acts and things as bodies corporate may by law do and suffer.

(3) Every reference in any Act, or in any deed, document, or other writing of any kind to the Renmark Irrigation Trust No. 1 shall be deemed to be a reference to the Renmark Irrigation Trust, and the body corporate called the Renmark Irrigation Trust shall for all purposes be deemed to be the same body corporate as the body corporate called the Renmark Irrigation Trust No. 1.

(4) The district of the trust shall be called "The Renmark Irrigation District". Every reference in any Act or in any deed, document, or other writing of any kind to "The Renmark Irrigation District No. 1" shall be deemed to be a reference to the Renmark Irrigation District.

Common seal

7. (1) The trust shall have a common seal, which shall be kept at the trust office.

(2) The corporate name of the trust shall be part of the seal.

(3) Judicial notice shall be taken of the seal of the trust by every court, justice, and other tribunal.

District of the trust

8. (1) The district of the trust shall be the area margined in red on the plan signed, J.H. McNamara, Surveyor-General, deposited in the Land Office on the fifth day of August, 1936, and numbered 324.

(2) The Governor may by proclamation declare that any portion of the State shall be included in the district of the trust.

The Governor shall not make any such proclamation unless petitions for the making thereof are presented to the Minister by the trust and by the owners of land within the said portion of the State praying that the said portion of the State be included in the district of the trust and unless the Minister is satisfied—

(a) that a petition presented by owners as aforesaid is signed by one-half or more of the owners of land within the part of the State proposed to be included within the district of the trust; and

(b) that the area of land owned by the persons by whom the petition is signed is more than one-half of the total area of the land included within the said part of the State.

A petition as aforesaid shall not be presented by the trust unless a poll of the ratepayers has been held at which a proposal for the inclusion of the said portion of the State within the district of the trust has been approved.

In this subsection "**owner of land**" means the registered proprietor in fee simple, the lessee under any perpetual lease granted by the Crown, and the purchaser under any agreement for the sale and purchase of the land granted by the Crown.

Purposes of trust

9. The purposes for which the trust is constituted are—

- (a) to facilitate the putting into operation of the water rights to which the ratepayers are entitled under or by virtue of this Act or any repealed Act, or of *The Chaffey Brothers Irrigation Works Act 1887* or any licence granted in pursuance of the last-mentioned Act, or any sale, disposition, lease, or transfer of land, such as is mentioned in paragraph 13 of the agreement in the last-mentioned Act;
- (b) to supply and distribute to, or for the benefit of, the ratepayers water within the district;
- (b1) to construct drains or drainage works for the prevention or removal of seepage conditions within the district or any part thereof;
- (c) to supply water, at the option of the trust, to persons other than the ratepayers;
- (d) to acquire, at the option of the trust, and so far as practicable, from the person for the time being entitled thereto, all or any portion of the water rights, privileges, concessions, and easements in respect of water given, granted, licensed, or assigned, or agreed to be given, granted, licensed, or assigned to George Chaffey or William Benjamin Chaffey, or either of them, or to Chaffey Brothers, Limited, under or by virtue of *The Chaffey Brothers Irrigation Works Act 1887* or of the agreement in that Act, or any licence issued or to be issued under or in pursuance of the said Act or agreement;
- (e) to acquire and take over any irrigation works, at the option of the trust, from any person;
- (f) to enter into any agreement with any other person, for the supply of water to the ratepayers, or for carrying out any of the powers or purposes of the trust;
- (g) to exercise and carry out the powers of this Act vested in the trust, and to do all such lawful things as may be incidental or conducive to carrying out the above-mentioned purposes or any of them.

Renmark Irrigation Trust Act 1936

**PART 3
MEMBERS, AUDITORS, AND ELECTIONS**

DIVISION 1—MEMBERS

Members

10. The trust shall consist of seven members.

Qualification of members of trust

11. (1) Every ratepayer who is of the age of eighteen years or upwards, and holds in his own right not less than five hectares of ratable land in the district in fee simple or under perpetual lease granted by the Crown or under an agreement for the sale and purchase thereof granted by the Crown, shall be qualified to be and continue a member of the trust, except—

- (a) an undischarged bankrupt;
- (b) a ratepayer in arrear for six months with the payment of any rate for which he is liable in respect of ratable land within the district;
- (c) a person who holds any place of profit in the gift of the trust;
- (d) a person who directly or indirectly participates or is interested in any contract, except for advertisements and printing, with, or employment under, the trust.

(2) No person shall be disqualified from being or continuing a member by reason of his receiving travelling expenses incurred in pursuance of and authorised to be paid by a resolution of the trust, or acting as returning officer or deputy returning officer under this Act, or receiving remuneration for so acting, or by reason of his being a member of a public or joint-stock company, incorporated by the law of the United Kingdom or any British possession, which is concerned with any contract or dealing with the trust; but no member shall vote on a question relating to a contract or dealing with a company of which he is a member.

(3) If not less than five hectares of ratable land in the district are held in fee simple or under perpetual lease granted by the Crown or under an agreement for the sale and purchase thereof granted by the Crown, by a company or body corporate (except the trust), or by joint tenants or tenants in common, then the following provisions shall apply:

- I. The company or body corporate may nominate, in writing, not later than the thirty-first day of March in any financial year, a person who shall, for the purposes of being or continuing a member of the trust, be deemed to be the holder in his own right of the land of the company or body corporate:
- II. The joint tenants or tenants in common may nominate, in writing, not later than the thirty-first day of March in any financial year, one of their number who shall, for the purpose of being or continuing to be a member of the trust, be deemed to be the holder in his own right of the land of the joint tenants or tenants in common, as the case may be:
- III. Any nomination made pursuant to this section shall be deemed to continue from year to year until revoked in writing. If a person nominated as aforesaid is elected as a member of the trust and if whilst a member the nomination is revoked, the revocation of the nomination shall not affect the tenure of his office as member for the balance of the term of office for which he was elected.

Qualified persons compellable to serve

12. (1) Every person qualified to serve as member shall be compellable to serve, except—

- (a) a person who, when elected, was not resident within the district, and who has not expressed his assent to his candidature in writing delivered to the returning officer previous to the election;
- (b) a person who, after his election, goes to reside, or by reason of a change of boundaries, becomes resident, out of the district;
- (c) a person who has served the full time during which a person duly qualified is entitled to serve as a member and who, within three years of the termination of his former service, is again elected a member for the district, and who has not expressed his assent as above mentioned;
- (d) a person who is, or during his tenure of office may become, sixty years of age;
- (e) a person receiving any salary from the Government;
- (f) members of Parliament.

(2) To entitle any person other than a member of Parliament to exemption under this section, he shall, by writing, make a claim of exemption, which writing shall be posted or delivered to the chairman, if there is a chairman, or otherwise to the Minister, within fourteen days from the election of the person so exempt, or from the happening of the exemption, whichever last happens.

Vacancies

13. Any of the following acts and events shall cause a vacancy in the office of member, namely:

- I. Death, lunacy, idiocy, bankruptcy, the execution by the member of a statutory deed of assignment for the benefit of his creditors, or a member compounding with his creditors for less than one hundred cents in the dollar, or the conviction of the member for an indictable offence:
- II. Absence from the State, without leave of the trust, during the holding of three consecutive ordinary meetings, or failure to attend the meetings of the trust for three consecutive ordinary meetings without sufficient cause, and followed, in either case, by a resolution passed by the trust within three weeks after the last of such three consecutive ordinary meetings, declaring the office vacant, which resolution the trust may pass, but is not bound to pass:
- III. Any disqualification, and notice thereof, by the disqualified person, or some person on his behalf, posted or delivered to the chairman or secretary, or, if there is no chairman, to the Minister:
- IV. Resignation by notice posted or delivered as aforesaid:
- V. Retirement by rotation, as provided by this Act:
- VI. The judgment or order of any duly authorised court declaring the office vacant.

Renmark Irrigation Trust Act 1936

Annual retirement of members

14. (1) As from the first Saturday in the month of July, 1966, and on every first Saturday in July in each succeeding year, the following provisions shall apply as regards the annual retirement of members:

- (a) where there is an even number of members, half the number shall retire;
- (b) where there is an uneven number of members, then, when this first occurs a minority shall retire, but where there is an uneven number of members on any occasion thereafter—
 - (i) a majority shall retire if a minority retired on the previous occasion on which there was an uneven number;
 - (ii) a minority shall retire if a majority retired on the previous occasion on which there was an uneven number.

(2) The members to retire shall be those who have been longest in office without re-election and when the number cannot thus be made up or decided lots shall be drawn between those who have been an equal time in office without re-election to decide which of them shall retire and the retirement shall take place accordingly.

(3) In this section "**majority**" means the integer nearest to, but more than, half of the total number of members and "**minority**" means the integer nearest to, but less than, half of the total number of members.

Chairman not to draw lots

15. The chairman shall in no case be required to draw lots; but the other member or members with whom it would be necessary, but for his position as chairman, that he should draw lots shall retire, or draw lots between them without the chairman, to decide which of them shall retire.

Retiring members to hold office until successors appointed

16. Members required by this Act to retire shall go out of office, but shall be deemed to hold office until their successors are appointed.

Lots to be before notice of nomination

17. All drawing of lots by members to decide retirements shall be had a week at least before the day on which notice is given of the day for the nomination of candidates for election.

Procedure on failure of members to draw lots

18. Where lots are required to decide retirements, if the members who should draw lots fail to do so till within a week of the last day when notice has to be given for the nomination of candidates for election, the chairman, or any justice resident in the district, on the request, in writing, of any one member or any three ratepayers, shall, in the presence of three or more ratepayers, draw lots and decide which of the members shall retire, and shall thereupon declare and give public notice under his hand of the names of the members who are to retire and they shall retire accordingly.

Vacancies existing at the annual election

19. (1) When, at the time of giving notice of the annual day of nomination, there are vacancies in the trust, and no more members are required to retire on the first Saturday in July of that year than there are seats then vacant, there shall be no need for any retirement of members, but the vacancies so existing shall be filled up at the annual election meeting.

(2) If any vacancy or vacancies exist at the time of giving notice of any annual day of nomination, every member whose seat is so vacant shall be taken to be a person bound to retire on the first Saturday in July of that year, and every such vacancy shall be filled up at the annual election, and any other retirements which may be necessary shall be settled in manner herein provided.

Retiring member eligible for re-election

20. A member or chairman retiring from or ceasing to hold office, but duly qualified, shall be eligible for re-election.

Chairman's and members' fees

21. (1) The chairman shall be paid by the trust such annual remuneration for his services as is fixed by the trust in each financial year: Provided that the remuneration paid to the chairman during any financial year shall not exceed such amount as is approved by the Minister.

(2) Every member, other than the chairman, shall be paid by the trust such annual remuneration for his services as is fixed by the trust in each financial year: Provided that the remuneration paid to each member during any financial year shall not exceed such amount as is approved by the Minister.

(3) No person shall be disqualified from being or continuing the chairman or a member of the trust by reason of his receiving any payment under this section.

DIVISION 2—AUDITORS

Election and retirement of auditors

22. (1) There shall be two auditors for the trust.

(2) Auditors shall be nominated and elected by the ratepayers in like manner as members are nominated and elected but no person shall be elected as or continue to be an auditor unless he holds one or more of the prescribed qualifications.

(2a) For the purposes of this Act the prescribed qualifications for an auditor shall be—

- (a) a local government auditor's certificate issued pursuant to Part 5 of the *Local Government Act 1934-1949*;
- (b) membership of the Institute of Chartered Accountants in Australia;
- (c) membership of the Federal Institute of Accountants (Incorporated);
- (d) membership of the Commonwealth Institute of Accountants;
- (e) membership of the Association of Accountants of Australia Incorporated;
- (f) the Diploma in Commerce of the University of Adelaide.

(3) Any auditor elected at an annual election shall hold office as from the first Monday in the September following his election.

(4) On the first Monday in every September one auditor shall retire from office. The auditor to retire shall be the one who has held office longest without re-election. If both have so held office the same length of time the auditor to retire shall be decided by lot to be drawn by the chairman one week at least before the day on which notice is given of the day for the nomination of candidates for election. If the chairman fails so to draw lots, both auditors shall retire.

Renmark Irrigation Trust Act 1936

Qualification of auditors

23. The qualification and disqualifications for the office of auditor shall be the same as in the case of a member, except that an auditor need not be a ratepayer, and that no member shall be auditor. An auditor otherwise qualified to be member may be elected member, and shall thereupon cease to be auditor.

Vacancies in the office of auditor

24. Any of the following acts and events shall cause a vacancy in the office of auditor, namely:

- I. Death, lunacy, idiocy, being adjudicated bankrupt, or the execution by the auditor of a statutory deed of assignment for the benefit of his creditors, or compounding with his creditors for less than one hundred cents in the dollar:
- II. Absence from the State at the time at which any periodical audit is appointed to be held, or non-attendance at any audit after fourteen days' notice has been given to the auditor of the time and place appointed for holding the same:
- III. Election as a member:
- IV. Resignation by notice posted or delivered to the chairman, if there is a chairman, and otherwise to the Minister:
- IVa. Ceasing to hold at least one of the prescribed qualifications for an auditor:
- V. The judgment or order of any competent court or justices declaring the office vacant:
- VI. The being concerned directly or indirectly, save as member of a public or joint-stock company incorporated by the law of the United Kingdom or any British possession, in any contract or dealing with the trust other than his employment as auditor.

Auditing accounts

25. (1) The auditors shall, as soon as conveniently may be after the half-yearly balancing of accounts in accordance with this Act, proceed to audit the accounts of the trust for the half-year preceding the said half-yearly balance.

(2) The trust shall cause to be produced and laid before the auditors the said accounts, together with proper vouchers in support of the same, and all books, papers, and writings in the custody or power of the trust relating thereto.

(3) If the said accounts are found correct, the auditors shall sign the same in token of their allowance thereof.

Balance-sheet to be sent to owners and occupiers

26. (1) Within two months after the auditors have certified the yearly balance-sheet the trust shall send a copy thereof to every person whose name is shown in the assessment book as owner or occupier of ratable land within the district.

- (2) A balance-sheet shall be deemed to be sent to a person if it is—
 - (a) left for him at his usual place of abode or his place of abode as recorded by the trust; or
 - (b) posted to such person with postage prepaid in a letter or package addressed to his usual place of abode or his place of abode as recorded by the trust.

(3) The trust shall keep copies of its last balance sheet at its office and on the request of any person made at such office at any time during the ordinary business hours of the trust, shall produce to him a copy of such balance sheet and shall permit him to examine it and take extracts from it.

Persons to be present at auditing accounts

27. The auditors may refuse to allow any person, except the chairman of the trust, to be present at the audit of the accounts.

DIVISION 3—ELECTIONS

Returning officer

28. (1) The trust shall appoint a returning officer, not being a candidate, to preside at the nomination and election of members and auditors.

(2) The trust shall reimburse the returning officer all expenses incurred by him in discharge of his duties, and shall pay him any remuneration that shall be agreed on.

(3) The returning officer, if he accepts office, shall not be eligible as a candidate at the election at which he is appointed to preside.

Day of nomination

29. (1) The nominations of members and auditors for the annual election shall take place at the trust office, at noon, on the third Monday in June in every year.

(2) Ten clear days at least before that day the trust shall cause public notice to be given of the place, day, and hour for the nomination of candidates.

Form of nomination, and time for lodging

30. (1) The nominations of members and auditors shall be signed by two ratepayers, and shall be in such one of the forms in schedule 2 as shall be applicable, or in a form as near thereto as circumstances will admit.

(2) No nomination shall be acted upon unless the same is lodged in the trust office before the hour of noon of the day fixed for nominations.

Proceedings on day of nomination

31. (1) On the day of nomination the returning officer shall attend at the trust office at the hour of noon, at which time and place he shall cause all the nominations lodged in the office to be publicly opened and read aloud.

(2) If there is such number of candidates nominated as are required to be elected and no more, the returning officer shall declare those candidates to be elected to serve in their respective offices, in the case of members, as from the first Saturday in the July next ensuing, and in the case of auditors, as from the first Monday in September next ensuing.

(3) In the event of there being more candidates nominated than are required to be elected, the returning officer shall adjourn all further proceedings in respect of the election until the first Saturday in the July following, when the election shall be by ballot, as by this Act provided.

Notices of adjournment to be given

32. The returning officer upon any such adjournment shall forthwith give notice thereof, and of the object thereof, and the names of the several candidates, and the day, hour, and place when and where the election is to take place, by posting handbills on every place appointed by the trust by by-law as a place for posting notices.

Renmark Irrigation Trust Act 1936

Procedure on failure of annual election and on extraordinary vacancy

33. (1) Wherever—

- (a) the annual election (other than the annual election of an auditor) from any cause wholly or in part fails to be made upon the day appointed by this Act; or
- (b) any such election being made, afterwards becomes wholly or in part void; or
- (c) an extraordinary vacancy occurs in the office of member,

a supplementary election shall be held.

(2) Whenever—

- (a) the annual election of an auditor fails to be made upon the day appointed by this Act; or
- (b) such election being made afterwards becomes void; or
- (c) an extraordinary vacancy occurs in the office of auditor,

the trust shall appoint an auditor.

Proceedings on supplementary election

34. (1) Immediately upon the happening of any such whole or part failure or avoidance, or any such extraordinary vacancy, the trust shall by public notice appoint a day, not being earlier than seven days nor later than twenty-one days from the notice, for the nomination of the persons to be elected.

(2) The nomination shall take place on the day so appointed in like manner as at the annual election.

(3) If there is such number of candidates nominated as are required to be elected and no more, the returning officer shall declare the candidates to be elected to serve in their respective offices as from the day of nomination and election.

(4) If more candidates are nominated than are required to be elected, the returning officer shall adjourn all further proceedings in respect of the election until a day to be fixed by him for the election, not being less than six nor more than ten clear days from the day of nomination.

(5) On the day so fixed the election shall take place in like manner as at the annual election.

Notices of adjournment

35. The returning officer shall cause public notice to be given of any such adjournment, and the object thereof, and the names of the several candidates, and, in the case of wards, for which wards they are respectively nominated, and the hour and places when and where the election is to take place.

Proceedings in case of failure or avoidance of supplementary election

36. Whenever any supplementary election, wholly or in part, fails to be made, or becomes wholly or in part void, the trust shall hold another supplementary election in like time and manner as upon the failure or avoidance of an annual election.

Retirement of persons elected to fill extraordinary vacancies

37. Every person elected to supply an extraordinary vacancy shall, for the purposes of retirement, be deemed to have been elected when his immediate predecessor in office was elected, and shall retire accordingly, but shall be capable of being forthwith re-elected if qualified.

Notice of election

38. Within forty-eight hours from the election of any person to any office in connection with the trust, the returning officer shall cause to be delivered or posted to that person a notice informing him of the election, and within fourteen days of the election shall cause a notice thereof to be inserted in the *Government Gazette*.

Procedure where trust fails to hold election

39. If—

- (a) the trust fails to proceed as by this Act required to any election for the space of twenty-one days from the last day on which the election is required by this Act to be held; or
- (b) by resignation or otherwise it happens that there are no members of the trust,

any justice resident within the district, or any special magistrate, may, upon the request in writing of any three ratepayers, do every act by this Act required to be done for holding the election, including the appointment of a day of nomination and a returning officer.

Renmark Irrigation Trust Act 1936

**PART 4
MANAGEMENT OF THE TRUST**

Trust office

40. The trust shall have and maintain a suitable office within the district, or within the township of Renmark, for transacting the business of the trust.

Election of chairman

41. (1) At the first meeting of the trust after every annual election, the members present shall elect a chairman from among them.

(2) If there is an equal number of votes for two or more members having the largest number of votes, the person to act as chairman shall be chosen by lot between those members having the equality of votes.

(3) The omission to elect a chairman shall not prevent the trust from making such appointment at any future meeting.

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

Secretary

42. The trust shall appoint a man of full age who is not an auditor to be secretary to the trust; but any other person appointed as hereinafter provided may perform the duties of the secretary in his absence.

Annual meeting

43. An annual meeting of the trust shall be held in the month of July in every year, at the trust office, on such day and at such hour as the trust determines.

Ordinary and special meetings

44. (1) Ordinary meetings of the trust shall be held at the trust office at such times, not being less than once in every month, as the trust from time to time determines.

(2) Special meetings may be held at any time and at any place within the district.

(3) Any meeting may be adjourned to any time and to any place within the district, and any business required to be done at an annual or ordinary meeting may be done at a special meeting.

Special meetings

45. (1) A special meeting may be called by the chairman at any time, and, on the requisition in writing of any three members, it shall be his duty to call such a meeting.

(2) If the chairman refuses or for two clear days fails to call a meeting upon any such requisition, any three members may call the meeting by public notice, signed by them, and stating the object of the meeting and the time and place of holding the same.

Notice of meeting

46. Unless and until otherwise provided by regulations and by-laws, three days notice of every meeting, signed by the secretary, shall be sent by post to every member, informing him of the time and place of meeting, and, in the case of a special meeting, of the business to be done thereat.

Quorum

47. (1) At all meetings of the trust, except where otherwise provided by this Act, one-half of the members for the time being shall form a quorum.

(2) The secretary, in the absence of all the members, or any member present alone, or the majority of members present at a meeting at which there is no quorum, may, at the expiration of half an hour from the time fixed for the meeting, adjourn the same, and any business which could have been transacted at the meeting may be transacted at the adjourned meeting.

Chairman

48. (1) At every meeting of the trust the chairman, or, in his absence, such member as the members assembled choose to preside, shall preside.

(2) The person so presiding shall have a deliberative vote, and, in case of equality of votes, a casting-vote.

Business of trust to be carried on notwithstanding vacancy

49. Notwithstanding any vacancies in the office of member the business of the trust shall be carried on by the member or members actually in office, who shall have all the powers of the trust.

Proceedings of trust valid notwithstanding defect of appointment, etc.

50. All proceedings of the trust, or of a committee of the trust, or of any person acting as a member, shall, notwithstanding it may be afterwards discovered that there was some defect in the election or appointment of the members or any of them, or of any person acting as aforesaid, or that they or any of them were incapable of being members, be as valid as if the members or member, or person, had been duly elected or appointed, and was capable of being a member.

Inability of secretary, etc., to perform duties

51. 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 trust may perform the matter or thing, or appoint some member or other person to perform it.

Business falling on Sunday, etc.

52. If the day for any meeting or adjourned meeting, or for any business or thing required by this Act or any by-law to be held or done, falls on a Sunday, Good Friday, Christmas Day, or public holiday, the meeting shall be held, or business or thing done, on the third business day after the day on which it fell.

Resolutions, how revoked or altered

53. No resolution passed at any meeting of the trust shall be revoked or altered at any subsequent meeting, unless—

- (a) written notice of an intention to propose the revocation or alteration is given or posted to each of the members seven days at least before holding the meeting; and
- (b) the revocation or alteration is determined upon by a majority consisting of two-thirds of the members present at the subsequent meeting, if the number of members present at the subsequent meeting is not greater than the number of members present when the resolution was passed, or by a majority if the number of members present at the subsequent meeting is greater than the number present at the former meeting.

Committees

54. (1) The trust may appoint a committee or committees of its members, and may delegate to any such committee such of its powers and duties under this Act as the trust thinks fit.

Renmark Irrigation Trust Act 1936

(2) The trust may, from time to time, make such regulations and by-laws as the trust 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 them, or any of them, other members of the trust.

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

(4) A committee may appoint a sub-committee of its members to execute and discharge any of the powers and duties of the committee, but the acts of any such sub-committee shall be submitted for approval to the committee by which the sub-committee was appointed.

(5) In no case shall a committee be authorised to declare any rate; and no expenditure or payment or contract to expend or pay any sum of money exceeding one hundred dollars, made by a committee, shall be lawful or valid unless the expenditure, payment, or contract is afterwards approved or ratified by the trust.

(6) A committee appointed under this Act may (subject to regulations and by-laws of the trust) meet from time to time and adjourn as the committee thinks fit; but no business shall be transacted at any meeting of any such committee unless three members are present.

(7) At the first meeting of any committee or sub-committee one of its members shall be appointed chairman of the committee or sub-committee. All questions in committee shall be determined by a majority of votes of the members present. The chairman of the committee shall have a deliberative vote, and, in case of equality of votes, a casting vote.

(8) The chairman of the trust shall be *ex officio* a member of every committee or sub-committee.

Power to delegate powers to chairman

55. The trust may delegate all or any of its powers to the chairman, with such restrictions and limitations (if any) as the trust may think proper.

Minutes of meetings

56. (1) The trust shall cause minutes of all the meetings of the trust, 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 superintendence of the trust.

(2) The minutes of every trust 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 so to do for seven days after the meeting, then by any two members present and entitled to vote at the meeting.

(3) The minutes of a committee meeting at which a report is agreed to shall, if found correct, be signed at the meeting, or some adjournment thereof, by the chairman thereof.

Minute books and certified extracts therefrom evidence

57. (1) Every minute purporting to be any such 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 trust and signed by the secretary, shall be received as evidence in all courts, and before all judges, bodies politic, 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 trust 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 the minutes or of the affixing of the seal or of the signature of the secretary. 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 trust. Every ratepayer may inspect and take copies of the same at all reasonable times on payment of twenty cents to the secretary.

Renmark Irrigation Trust Act 1936

**PART 5
GENERAL POWERS OF THE TRUST****Effect of this Act on water rights and correlative obligations**

58. (1) Where upon the sale, disposition, or transfer by Chaffey Brothers, Limited, of any land granted to them in pursuance of *The Chaffey Brothers Irrigation Works Act 1887* or the grant of which to them purports to be in pursuance of that Act, a water right to be held with and run with the land as a perpetual easement has been granted or given, or expressed to be granted, or given, by Chaffey Brothers, Limited, to the person to whom the sale, disposition, or transfer was made, the power to exercise the water right shall be deemed to be irrevocably granted by the said person on behalf of himself and all persons claiming through or under him to the trust.

(2) All ratable land which before the commencement of this Act belonged to Chaffey Brothers, Limited, shall be deemed to carry with it a water right to be held with and run with the land as a perpetual easement, and the power to exercise the right shall be deemed irrevocably granted by Chaffey Brothers, Limited, on behalf of themselves and all persons claiming through or under them, to the trust.

(3) Any such water right as in this section mentioned shall be deemed to be a right to take and divert water from the River Murray in such manner as is or may be permitted under any licence covering the land to which the right is annexed and issued, or purporting to be issued, pursuant to the said Act, and in the proportion attributable under the licence to so much of the said land as is for the time being under irrigated culture within the meaning and for the purposes of such licence, and the granting or giving of the right by Chaffey Brothers, Limited, shall be deemed to have been or to be in satisfaction of the obligations imposed by the said Act on George Chaffey and William Benjamin Chaffey, or any person claiming through them, to secure in pursuance of the said Act and the agreement therein mentioned a sufficient water right to the purchasers of any land as in such agreement mentioned to be held with and run with the land as a perpetual easement.

Distribution of water by trust

59. (1) The trust shall, so far as practicable, take and divert from the River Murray and supply to the ratepayers in the district water in such manner as is permitted under any licence or licences for the time being in force under *The Chaffey Brothers Irrigation Works Act 1887* and in the proportion attributable under any such licence or licences to so much of the ratable land in the district as shall for the time being be under irrigated culture within the meaning and for the purposes of any such licence or licences, and shall distribute the water, less reasonable allowance for evaporation and other unavoidable loss, to the ratepayers in such manner as the trust considers most advantageous.

(2) The trust shall not be required to take, divert, or distribute water in excess of the quantity actually required from time to time for irrigation and domestic purposes.

Trust may lay pipes for supply to townships

60. The trust may, for the purpose of supplying water to township allotments, lay down pipes in streets and roads and elsewhere, and do all other acts necessary for such purpose, doing as little damage as may be, and making compensation as provided by this Act for any damage necessarily done.

Limitation on supply of water to persons other than ratepayers

61. In supplying water to persons other than ratepayers—

- (a) the trust shall not supply more water to township allotments than the proportion, which would be attributable to those allotments under *The Chaffey Brothers Irrigation Works Act 1887* and any licence or licences issued pursuant thereto, if the allotments were under irrigated culture;

- (b) the trust shall not supply water to persons for use outside of the district so as to diminish the supply to which persons within the district are entitled.

Property in water

62. The water in an irrigation work under the control of the trust shall be the property of the trust for the purposes of this Act.

Irrigation works not taxable

63. The irrigation works under the control of the trust shall not be liable to any rates under this Act or under or in pursuance of the *Local Government Act 1934-1957* or any other Act.

Supply of water to persons otherwise not entitled thereto

64. (1) The Trust may, upon such terms and conditions as it thinks fit—

- (a) supply water to any person in excess of the quantity of water to which that person is otherwise entitled under this Act;
- (b) supply water to any person who is not otherwise entitled to be supplied with water under this Act.

(2) The terms and conditions stipulated by the Trust under this section must conform with any relevant regulation or by-law under this Act.

Power of trust to expend moneys for certain purposes

65. (1) The trust may, with the consent in writing of the Minister (who is hereby authorised to give such consent), expend any moneys of the trust derived from the general revenue of the trust or from any special rate for all or any of the following purposes, namely:

- I. The protection of any land within the district or of any irrigation works of the trust from inundation or damage by flood by the construction of embankments or the carrying out of any other works approved in writing by the Minister; and the maintenance and repair of any such embankments or works:
- II. Any other purpose for the general benefit of the district which is approved in writing by the Minister.

(2) For any purpose of this section the trust may declare a special rate, and any such purpose shall be deemed an object of the trust within the meaning of section 94.

Power to declare non-ratable land

65A. (1) Subject to this section, the trust may at any ordinary or special meeting—

- (a) declare that any land within the district shall be non-ratable land;
- (b) revoke any such declaration previously made by the trust.

(2) No land which at the time of the passing of the *Renmark Irrigation Trust Act Amendment Act 1950* is ratable land included in the Assessment Book shall be declared non-ratable except at the request of the owner.

Renmark Irrigation Trust Act 1936

(3) Notwithstanding any other provision of this Act—

- (a) land which is non-ratable pursuant to any declaration for the time being in force under this section, shall not be ratable land within the meaning of this Act;
- (b) no person shall be a ratepayer in respect of such non-ratable land.

(4) The trust may sell water to the owner or occupier of non-ratable land on such terms and conditions as to place of delivery, price, and other matters as the trust fixes.

Payments before supplying of water to new land

65B. The trust may, before supplying water to any land which is not for the time being included in the Assessment Book, require the owner to pay or undertake to pay to the trust such sum as the trust fixes in respect of any capital expenditure incurred or to be incurred by the trust in connection with the supply of water to that land.

Power of trust to order method of irrigation

65C. (1) The trust may by order in writing served on the occupier of any ratable land require him to water his land or any specified part thereof only by the method specified in the order.

(2) A person who contravenes an order under this section shall be guilty of an offence against this Act, and liable to a penalty not exceeding two hundred dollars.

Power of trust to order drainage

65D. (1) Subject to subsections (4) and (5) of this section the trust 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 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) If an owner fails to comply with a requirement of a notice under this section—

- (a) he shall be guilty of an offence against this Act and liable to a penalty not exceeding two hundred dollars; and
- (b) the trust may, at its discretion, itself do or cause to be done any work indicated in the notice and in respect of which default has been made, and may by action in any court of competent jurisdiction recover from the said owner the expense incurred by the trust in doing that work.

(4) Before making an order under this section the trust 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.

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

Power to construct embankments

65E. (1) The trust may from time to time construct and maintain embankments or other works for the protection from inundation or damage by flood of any land within the district or of any irrigation works of the trust.

(2) For the said purpose the trust may construct embankments or other works upon any land within the district and for the purpose of constructing or maintaining any such embankments or works the trust and any person authorised by the trust may enter upon any land within the district. The trust shall be liable to pay to the owner of any such land compensation for any damage arising out of the construction or maintenance of any such embankment or work.

(3) For the purpose of this section the trust may declare a special rate and any such purpose shall be deemed to be an object of the trust within the meaning of section 94.

(4) The powers given by this section shall be in addition to any powers given by section 65.

Procedure on subdivision of land

66. If any ratable land is supplied with water, and by reason of any change in ownership in the land any part of the said land ceases to be capable of being supplied with water from the existing irrigation works of the trust, the trust shall not be obliged to supply water to such part of the said land unless the owner thereof pays to the trust the amount of the cost to the trust of constructing any irrigation works necessary in the opinion of the trust for the purpose of supplying such part with water.

Modes in which trust may make, vary, and discharge contracts

67. (1) The trust may enter into contracts for the purposes of this Act, and every such contract may be made, varied, or discharged as follows:

- I. Any contract which, if made between private persons, would be by law required to be in writing and under seal, the trust may make in writing and under the common seal of the trust, and in the same 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 signed by or on behalf of the parties to be charged therewith, the trust may make in writing under the common seal as aforesaid, or in writing signed by the members or any two of their number acting by the direction and on behalf of the trust, and may vary or discharge any such contract in the same way as it was or might have been made:
- III. Any contract which, if made by private persons, would be by law valid although only made orally, may be made by the trust in either of the two ways aforesaid, or by any two of the members acting by the direction and on behalf of the trust orally or in writing, or may be varied or discharged in the same manner as it was or might have been made.

(2) All contracts made according to the provisions herein contained shall be effectual in law and binding on the parties thereto.

Power to compound claims

68. The trust may compound with any party who has entered into any contract with the trust, or by or against whom any action or proceeding has been brought or threatened on behalf of or against the trust, for any cause whatsoever, for such sums of money or other consideration as the trust thinks proper.

Renmark Irrigation Trust Act 1936

Power to contract with other bodies or persons in certain cases

69. The trust may, from time to time, contract, upon such terms as the trust thinks fit, with any person or corporate public body in or out of the State, for or with respect to the doing and the control and management by either or both of the contracting parties of any matter or thing which the contracting parties are, or either of them is, by law empowered to do, control, or manage; and the trust may carry out any such contract according to the tenor thereof.

Power to let, manage, and improve property

70. The trust may, from time to time, demise, let, manage, and improve all lands, hereditaments, jetties, piers, breakwaters, wharves, foreshores, and other property real or personal acquired by, held in trust for or by, or placed under the care of the trust, so as such property be dealt with in a manner consistent with the terms, trusts, or purposes under and for which the same was acquired: Provided no such lease shall be granted for a term exceeding fifty years.

Power to establish superannuation funds, etc.

71. The trust may expend its revenue in contributing to any sick, accident, or pension fund for its officers or employees, or in providing retiring benefits, pension benefits, or any similar benefits for its officers or employees, and for any such purpose may enter into any contract of assurance with any assurance company.

* * * * *

Control of subdivision of irrigated land

72A. (1) In this section—

"**holding**" means any continuous area of land or any two or more parcels of land separated only by roads, track or channels, situated within the district and occupied and used as a single vineyard, orchard or garden;

"**subdivide**" means to transfer, convey or sell or enter into any other transaction under which any person becomes entitled to the separate occupation of any part of a holding.

(2) If any person subdivides any holding of irrigated land situated within the district without having first obtained the consent of the trust to the proposed subdivision the trust shall have power at its discretion and notwithstanding the other provisions of this Act to refuse to supply water to any part of that holding.

Power of Trust to acquire land

72B. (1) For the purpose of constructing or carrying out any works which it is authorised by or under this Act to construct or carry out, the trust may acquire any land, or interest in land, either by agreement or compulsory process.

(2) The *Compulsory Acquisition of Land Act 1925*, except subsection (1) of section 49 and section 50 thereof, shall apply to the acquisition of land by the trust.

(3) Sections 164 to 169 (inclusive) of this Act shall not apply to compensation for land acquired pursuant to this section.

(4) This section shall (without limiting its general application) authorise the trust to acquire the estate or interest of any person holding land of the Crown under a lease or agreement for sale and purchase. When the trust has acquired such an estate or interest in any Crown land the Governor may for such consideration as the Minister fixes on the advice of the Land Board, grant the fee simple of such land to the trust.

General powers of trust

72C. The trust, in addition to all other powers, shall have and may exercise the following powers and authorities within the district:

- I. to do all necessary acts, matters, and things for the making, construction, improving, altering, cleansing, repairing, widening, deepening, diverting, or extending of any irrigation works, or any bank or defence against waters:
- II. to erect all necessary buildings, bridges, irrigation works, and machinery, roads, ways, wharves, docks, and jetties, and to maintain, alter or discontinue the same, subject as regards wharves, docks, and jetties to the approval of any Marine Board or Harbors Board or other similar body having authority over the same under any Act for the time being in force:
- III. to break up and, if necessary, remove the soil of any road, way, bank, dam, or footpath:
- IV. to excavate and sink trenches for the purpose of laying down, making, and constructing irrigation works:
- V. to cause irrigation works to communicate with any stream or watercourse within or without the limits of the district:
- VI. to enter by its officers or agents, upon any lands within the district for the purpose of inspecting or removing any earth, stone, or clay therefrom, and of making, constructing, and diverting drains, channels, and watercourses, and of regulating the supply of water to any land, or to any person, or by any drain, channel, or watercourse, or for any of the purposes of this Act:
- VII. to enter, by its officers or agents, upon any lands or premises whereon or wherein it is proposed to execute any works, and on land adjacent thereto, and, if necessary to dig or bore therein:
- VIII. to examine any weir, sluice, or floodgate within or without the district erected in or upon or adjacent to any river, stream, lake, channel, watercourse, or other water; and to open or raise any floodgate or sluice within or without the district for any purpose whatever:
- IX. to use adjacent lands for making temporary roads or approaches to any work:
- X. to do all acts, matters, and things, and execute and carry out works of any kind, having for their object the betterment of the district or to secure the health, comfort, or convenience of the owners and lessees of lands therein:
- XI. to regulate and control all waters in channels and drains:
- XII. to regulate the height at which water may or shall be maintained in any channel or drain:
- XIII. for the purpose of supplying water to any block in the district, to divert water through any channel on any other block.

Renmark Irrigation Trust Act 1936

Power of trust to construct drains across roads

72D. (1) The trust may, in connection with the supply of water within the district—

- (a) cut and construct irrigation works on or across roads or streets, notwithstanding that such roads or streets are vested in or under the control of a district council or municipal corporation; and
- (b) from time to time improve, alter, cleanse, repair, widen, deepen, divert, or extend any such irrigation works; and
- (c) erect fences on or across such roads or streets for the protection of any such irrigation works; and
- (d) do all such acts, matters, and things as are necessary or convenient for carrying out the works authorised by this section.

(2) After such works are carried out, the trust shall erect and keep in repair such bridges and culverts, and do such other things, as are deemed necessary by the Minister for reinstating such roads or streets.

By-laws

73. The trust may, with the approval of the Minister, make regulations or by-laws for or incidental to the implementation of the purposes for which the trust is constituted or to facilitate the exercise by the trust of its powers under this Act, and without limiting the generality of the foregoing the regulations or by-laws may relate to the following subjects:

- I. The appointment of the time and place for meetings of the trust, whether ordinary or special:
- II. The powers and duties, and the control, supervision, and guidance of all officers, servants, and persons employed by the trust:
- III. The form of contracts to be entered into with the trust:

* * * * *

- IV. The leasing, care, or control of any irrigation works:
- V. The measures to be taken to prevent and remedy the waste, undue consumption, obstruction, and contamination of water contained or supplied from any part of the irrigation works, and to regulate the days and hours when water can be obtained for irrigation or domestic use on any land, and the quantity to be allowed:
- VI. For stopping the supply of water to or for the benefit of any ratepayer whose rates are in arrear, or to any ratable land the rates in respect of which are in arrear:
- VII. The protection of every part of the irrigation works from trespass or injury:
- VIII. Granting licences to competent plumbers, and cancelling such licences, and also for preventing any other than licensed plumbers from fixing, altering, or repairing any pipes, fittings, or meters connected with the pipes or works under the control of the trust:

- IX. For compelling persons using water supplied by the trust to keep their pipes, fittings, and other appliances in proper repair; for preventing any alteration of or interference with such pipes or fittings without the consent of or notice to the trust; for repairing such pipes, fittings, and appliances so as to prevent waste of water, and for recovering the cost of such repairs:
- X. For preventing unauthorised persons using, directly or indirectly, water supplied by the trust:
- XI. For regulating the number, form, material, dimensions, construction, and arrangement of pipes, fittings, and other works supplying water from the irrigation works under the control of the trust; the time of executing and the notices to be given for such works; the superintendence thereof; the making good and replacing ground which may be displaced in the course of such works; and for inspecting, at any hour, irrigation works, pipes, and fittings, whether situate within any buildings or otherwise:
- XII. The terms and conditions that the trust may impose in relation to the supply of water:
- XIII. The measurement of water supplied by the trust:
- XIV. The granting, suspension and revocation of licences authorising the diversion or taking of waters supplying or flowing into, any aqueduct, waterworks, stream, or reservoir in the district:
- XV. Imposing penalties, not exceeding two hundred dollars, for a breach of any regulation or by-law.

No by-law to be repugnant to any laws in force

74. (1) No such regulation or by-law shall be repugnant to this or any other Act of the State, or to the general spirit and intendment of the laws in force in the State, or inconsistent with the trusts or purposes on which any land, hereditaments, or other property may be held by the trust, or with any regulations made by the Governor under any Act for the time being in force.

(2) The trust shall not be authorised to inflict any punishment except by way of fine as above provided.

By-law not to exempt from proceedings for nuisance

75. Nothing contained in any regulation or by-law shall be construed to exempt any person guilty of a nuisance at common law from prosecution or action in respect thereof, nor from the consequences of conviction thereof.

Approval of regulations and by-laws

76. Every regulation or by-law made in pursuance of section 73, shall be approved by the Minister.

Minister may amend or revoke regulations and by-laws

77. (1) The Minister may at any time after fourteen days' notice in writing given to the chairman of the trust, revoke, amend, alter, or add to all or any of such regulations or by-laws.

(2) Every order by which any such regulations or by-laws is revoked, amended, altered, or added to, shall be published in the *Government Gazette*, and shall take effect and have the force of law from the time of such publication.

Renmark Irrigation Trust Act 1936

**PART 6
ASSESSMENTS**

Assessment-book

78. (1) The trust must, whenever the trust considers it necessary for the purposes of this Act, cause to be prepared and entered into a book ("the assessment-book") an assessment, in the form set out in schedule 3, that contains—

- (a) the name (as a ratepayer) of each person who is the owner or occupier of ratable land; and
- (b) a description, the area and the situation of the ratable land.

(2) The assessment shall be signed in the said book by the chairman and two members and the secretary, who shall specify in the book the date of the signature. The assessment shall thenceforth become and remain binding on the ratepayers until a new assessment is in like manner prepared, entered, and signed.

New assessment to be made by assessors

79. (1) Every new assessment, except as by this Act otherwise provided, shall be made by one or more assessors, to be appointed by the trust.

(2) Every such assessor shall, for the purpose of making the assessment, have power to put to any owner or occupier of ratable land, or person in charge thereof, questions upon all such matters as may be necessary to enable the assessor to state correctly the particulars by this Act required to be stated in the assessment with regard to the land.

(3) If, after being informed by the assessor of his being an assessor, and of his purpose in putting the questions, and of his authority under this Act to put the same, any such owner or occupier or person in charge refuses or wilfully omits to answer the same to the best of his knowledge and belief, or wilfully makes any false statement in answer to any such question, he shall be guilty of an offence against this Act and liable to a penalty not exceeding twenty dollars.

Power to adopt previous assessment

80. The trust may, instead of causing any new assessment to be made by assessors, approve as a new assessment the last previous assessment, with such alterations and additions as may appear necessary.

Persons may have their names removed on change of ownership or occupation

81. Every person whose name appears in the assessment-book as owner or occupier of any ratable land shall be entitled to have his name removed from the book, upon a change of ownership or occupation, and upon notice in writing thereof given to the trust under his hand, he having first paid all rates, notice of which has been duly given him.

Insertion of names in assessment

82. An owner or occupier of any ratable land, but whose name does not appear in the assessment-book as such, may apply to the trust to have his name inserted in the assessment-book, and shall be entitled to have his name inserted accordingly, except within fourteen days immediately preceding any annual election.

Power to rectify assessment-book

83. Except within 14 days immediately preceding any annual election, the trust must rectify the assessment-book as soon as practicable after—

- (a) any land has ceased to be ratable land by reason of subdivision, amendment of this Act, or otherwise; or
- (b) the discovery of any error or omission in the assessment-book.

Notice of assessment

84. (1) Public notice of the making of any new assessment, of the adoption of any previous assessment, and of the place or places where copy or copies thereof may be inspected, shall be given to the effect of the form in schedule 4 applicable thereto, within fourteen days from the making or adoption.

(2) Notice of the making of every new assessment, not being an adoption of a previous assessment, and of the making of any alteration or rectification of or addition to any assessment, shall, within fourteen days from such new assessment, alteration, rectification, or addition, be given in the form in the said schedule applicable thereto, or to the like effect, by posting or delivering the same to every person appearing in the assessment-book as the owner of the land concerned. If no person appears in the assessment-book as owner, the notice shall be given in the *Government Gazette*.

Appeal against assessment

85. Any person may appeal against the assessment or any alteration or rectification thereof, or addition thereto, on any of the grounds following:

- I. That he is not the owner or occupier of the whole or any or some particular part of the ratable land for which his name appears as owner or occupier:
- II. That any ratable land, or the owner or occupier of any ratable land, within the district is omitted from the assessment:
- III. That any land included in the assessment is not ratable.

Hearing of appeals

86. (1) Appeals as aforesaid may be made either to the trust or directly to the Land and Valuation Court.

(2) From the decision of the trust on any such appeal there may be a further appeal to the Land and Valuation Court.

* * * * *

Time for appealing

87. (1) Every appeal to the trust shall be commenced within twenty-one days after the publication of the notice of the adoption or making of the assessment in the *Government Gazette*, or the giving of the notice of the alteration or rectification of or addition to any assessment, as the case may be, by notice in the form in schedule 5, or in a form to the like effect, with such modifications as circumstances may require.

(1a) Every appeal directly to the Land and Valuation Court must be commenced within twenty-one days after notice of the adoption or making of the assessment is published in the *Gazette*, or notice of the alteration or rectification of, or addition to, an assessment is given, in accordance with the appropriate rules of the Supreme Court.

(2) If the appeal is to the trust the notice shall be given to the secretary; if the appeal is made to the Land and Valuation Court, notice shall be given, in accordance with the appropriate rules of the Supreme Court, to the secretary. Notice shall also be served upon the person (if any) whose name it is proposed to insert in the assessment, or whose property is alleged to be omitted, fourteen days before the hearing of the appeal.

Renmark Irrigation Trust Act 1936

(3) Appeals made directly to the Land and Valuation Court shall be heard as soon as practicable after the expiration of twenty-seven days from the day on which the notice is published in the *Gazette*, or notice of the alteration, rectification or addition is given.

(4) Appeals made to the trust shall be heard within thirty-two days next after the publication or the giving of the notice. Notice of the day appointed by the trust for the hearing of appeals shall, fourteen days before the day of hearing, be given by advertisement in some convenient public newspaper (if any), and be posted on a conspicuous part of the trust office.

Production of assessment book

88. On the hearing of all such appeals the secretary shall produce the assessment-book containing the assessment, alteration, rectification, or addition appealed against, and the trust, upon examining the witnesses without oath or the Land and Valuation Court, upon examining the witnesses on oath on the day of hearing, or at some adjournment of the hearing, may make such order as shall be just, and shall cause any alteration occasioned by the decision of the appeal to be made in the assessment-book by the secretary.

Appeals from decision of trust

89. (1) Every appeal from the decision of the trust given or made on the hearing of any appeal to the trust as hereinbefore provided shall be commenced in accordance with the appropriate rules of the Supreme Court.

(2) Notice of appeal, in the form prescribed by the rules of the Supreme Court must be served on the secretary within ten days after the trust gives its decision.

(3) The appeal shall be heard as soon as practicable after the expiration of ten days from the day on which the notice of appeal is served on the secretary.

(4) On the hearing of the appeal the secretary shall produce the assessment-book containing the assessment, alteration, rectification, or addition in question, and the Land and Valuation Court may, on the day of hearing, or at some adjournment of the hearing, make such order as shall be just, and shall cause any alteration occasioned by the decision of the appeal to be made in the assessment-book.

Costs of appeal

90. The Land and Valuation Court, on the hearing of any appeal, may make such order as may seem just for the payment by any party to the appeal to any other party to the appeal of the costs of the appeal, and of the previous appeal (if any) to the trust.

**PART 7
RATES**

Rate estimate

91. (1) The trust shall, from time to time, before proceeding to make any rate by this Act authorised, cause an estimate to be prepared of the money required for the several purposes in respect of which the trust is authorised to expend or apply the funds of the trust, showing the several sums (if any) already available for those purposes, the several sums required, and the sum per hectare of ratable land necessary to raise the money required.

(2) The estimate, after the same has been approved of by the trust, shall be entered in a book, to be called the "Rate Estimate Book", which shall be kept at the trust office, and shall be accessible to the ratepayers at all reasonable hours.

Rates

92. (1) After making such estimate, and after twenty-one days have elapsed from the giving of public notice of an assessment, the trust shall—

- (a) for the purposes in section 93 mentioned declare on the land included in the assessment-book a general rate for the half-year ending the thirtieth day of June, and another general rate for the half-year ending the thirty-first day of December next after the declaring of the rate, each rate not to exceed such amount as the Minister shall approve for every hectare of such land:

and may—

- (b) for the purposes in section 94 mentioned declare on the land included in the assessment-book a special rate for the half-year ending the thirtieth day of June, and also, if the trust thinks fit, another special rate for the half-year ending the thirty-first day of December next after the declaring of the rate, each rate not to exceed such amount as the Minister shall approve for every hectare of such land.

(2) For the purposes of this section a part of a hectare of land is to be rounded off to the nearest tenth of a hectare when calculated to the third decimal place.

- (3) A rate for any half-year shall be declared during that half-year.

Purposes of general rate

93. The purposes for which a general rate may be declared are as follows:

- I. For diverting, taking, raising, and distributing water in pursuance of the purposes of the trust:
- II. For constructing and keeping in repair all irrigation works belonging to or used or required for the purposes of the trust, including all pumping apparatus, machinery, works, reservoirs, embankments, dams, conduits, channels, races, sluices, pipes, and all other property built or constructed for or in connection with the purposes of the trust, and also the lining or cementing of all channels and aqueducts:
- III. For paying all moneys expended or liabilities incurred by the trust in working and managing the irrigation works, and in distributing or causing to be distributed or rendering available, or causing to be rendered available for distribution, water for the purposes of this Act, and otherwise in carrying out the purposes of the trust:

Renmark Irrigation Trust Act 1936

- IV. Generally, and without limiting the effect of any of the preceding paragraphs, for raising money for carrying out the purposes of the trust.

Purposes of special rate

94. The purpose for which a special rate may be declared is the raising of money for carrying out any of the objects of the trust, and paying any expenses and liabilities incidental to the carrying out of such objects, in so far as such money has not been raised by a general rate.

Rate to be entered in part 2 of assessment book

95. Every rate when declared shall forthwith be entered by the secretary in part 2 of the assessment-book according to the form in schedule 3, and so that the particulars therein required in respect of each such rate shall be entered in the proper column opposite the names of the ratepayers liable to pay the same respectively. The assessment-book shall at all times show a complete record of the moneys due in respect of all assessed land.

Public notice of making of rate

96. Within fourteen days after declaring any rate, the trust shall cause notice to be given in the *Government Gazette* and in some newspaper generally circulating in the neighbourhood, of the nature and amount thereof, according to the form applicable thereto contained in schedule 7, or in a form to the like effect.

Moneys to be deposited

97. (1) All moneys received on account of the trust shall be deposited in an ADI appointed by the trust to receive the same.

(2) All such moneys shall be deposited as aforesaid forthwith after the receipt thereof: Provided that if it is not possible to comply with this subsection by reason of the ADI as aforesaid not being open for the receipt of the said moneys the moneys shall be deposited at the ADI on the next day on which the ADI is open for the receipt thereof.

(3) Payment on behalf of the trust of any amount exceeding five dollars, for any purpose except for payment of wages, shall be by cheque on the trust's ADI, signed by the chairman and by a member authorised from time to time by the trust in that behalf and countersigned by the secretary.

(4) Payments not exceeding five dollars may be made out of a petty cash account, which shall be replenished from time to time by cheques for that purpose signed as aforesaid.

(5) Wages may be paid in manner provided by subsection (3) or subsection (4) or by cash obtained by cashing a cheque for that purpose signed and countersigned as aforesaid.

Person liable to pay rates

98. The person primarily liable for the payment of rates in respect of any ratable land shall be the person for the time being appearing in the assessment-book as the occupier of the land. In default of payment by or recovery from him, or if the land is or becomes unoccupied, then the person for the time being appearing in the assessment-book as the owner of the land shall be liable.

Twenty-one days' notice to be given before recovery of rates

99. Every rate shall become due when it is declared, but no rate shall be recoverable by action or by summary proceedings from any person resident in the State until twenty-one days after a written notice from some officer of the trust is delivered or sent by post to the usual or last known place of abode in the State of that person, informing him of the amount of the rate payable by him, and in respect of what land the same is payable.

Interest in default of payment of rate

100. (1) If any rate is not paid before the end of three months after the same 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 delivered or sent by post to the usual or last known place of abode in the State of that person, as provided by section 99.

(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, ten 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 *Renmark Irrigation Trust Act Amendment Act 1984* 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

101. Every person appearing in the assessment-book as the owner of any ratable land shall continue liable for all rates declared in respect of that land, notwithstanding any change in the ownership thereof prior to the declaration of the rates, unless before such declaration the name of another person is inserted in the assessment-book as the owner, or the person so ceasing to be owner gives written notice to the secretary of the change of ownership, stating who is the person who has become owner.

Rates, how recoverable

102. Rates may be recovered from any person liable to pay them, in the name of the trust, by action in any court of competent jurisdiction, or in a summary way.

Procedure when rates in arrear

103. If any rates in respect of any ratable land are in arrear for the period of two months, the trust may, at any time after the expiration of such period of two months, cause to be published three times in the *Government Gazette* a notice in the form in schedule 8, or in a form to the like effect.

Power to let land for payment of rates

104. (1) If in such case as hereinbefore stated, after two months from the last publication of the said notice, the rates due at the time of the first publication thereof, or any part of the rates, are or is still unpaid, the trust may let the land from year to year, or for any term not exceeding fifteen years, and may receive the rents, and shall then apply the same, in the first place, in and towards reimbursing all costs of and attending the notice and letting, and, in the next place, in and towards the payment of the rates in arrear, including as well the rates in arrear at the time of the first publication of the said notice as any rates that may become due and in arrear up to the time of the letting, and also interest due in respect of those rates and shall hold any surplus for the owner of the land.

Renmark Irrigation Trust Act 1936

(2) Every deed or other instrument entered into by the trust for effectuating any such letting shall be valid and binding upon the owner or any person claiming through or under him.

Power of sale

105. (1) Instead of letting the land as aforesaid the trust may, after two months from the last publication of the notice, if the rates due at the time of the first publication thereof, or any part of the rates, are still unpaid, apply by petition to the Supreme Court for a sale of all or any part of the ratable land comprised in the notice.

(2) The said court, on being satisfied, by affidavit or otherwise, that the rates mentioned in the notice are lawfully due, and were in arrear for two months at the time of the first publication of the notice, and that all things required by section 103 to be done have been done, shall—

- (a) order the sale, by public auction, of the ratable land comprised in the petition, or so much thereof as may be sufficient to pay the rates in arrear, including as well the rates in arrear at the time of the first publication of the notice as any rates that may become due and in arrear up to the time of the application for sale, together with interest due in respect of those rates and together with all costs and expenses of and attending the notice, the application, and the sale, and that the proceeds be paid into court;
- (b) and may order that a memorandum of transfer be executed by the Master or other officer of the court, in such form as shall be approved by the court or a judge thereof, transferring the premises to the purchaser free from any mortgage or encumbrance.

(3) The registration of any such memorandum of transfer shall vest in the purchaser an indefeasible estate on the premises, according to the tenure of the ratable land, and free from any mortgage or encumbrance.

(4) The court may order payment out of the proceeds of the sale of the said rates, interest, costs, and expenses, and the balance of the proceeds of the sale shall remain subject to any future or other orders of the court for the behoof of the parties interested therein.

Transfer to have effect as ordered

106. Every transfer ordered by the court as aforesaid shall have effect in accordance with the order. The Registrar-General shall register every such transfer, and, where appropriate to the tenure, shall issue a certificate of title to the purchaser of the premises comprised therein, and do such other acts and things as may be necessary to give effect to the order of the court.

Properties comprised in different assessments may be included in one petition

107. In case there are included in any such notice as aforesaid any ratable lands comprised in different assessments or belonging to different owners, the same may be included in one petition for sale, and the court may make such orders as to the apportionment of rates, interest, costs, and expenses in respect of the ratable lands, or any part thereof, as the court may deem just.

Previous sales validated

108. Any order for sale made before the twenty-first day of December, 1907, by the Supreme Court or a judge thereof under *The Renmark Irrigation Trusts Act 1893* and all sales made and titles acquired pursuant to any such order are hereby confirmed and validated.

Notice of application a condition precedent

109. (1) No application under section 105 shall be made to the court unless it is then shown that at least one month prior to the application the trust posted a notice or notices addressed to the person or persons who at the time of the posting appeared in the register-book at the Lands Titles Registration Office at Adelaide, as having any interest in the land in respect whereof an order for sale is sought.

(2) The notice may be in the form in schedule 9, or to the like effect, and shall be deemed to be a sufficient notice of the said application to all persons concerned, but the non-receipt of the notice shall not affect any sale made under an order of the court.

After once offered for sale and unsold, lands may be sold privately

110. In every case where land is offered for sale, pursuant to the provisions of section 105, but no sale has thereupon taken place, the trust may at any time thereafter, without any further application to the Supreme Court, and without any further notice in the *Government Gazette* or to any person, sell the land either by public auction or private contract, and without any reserve or upset price, if the rates which were in arrear at the date when the land was first offered for sale as aforesaid, or any part of these rates, still remains unpaid.

Application of proceeds

111. The proceeds of any such sale, after payment of the expenses thereof and incidental thereto, shall be applied in payment—

- (a) firstly, of such unpaid rates as aforesaid, together with interest due in respect of those rates;
- (b) secondly, of any additional rates upon the same property which at the date of the sale have accrued due together with interest due in respect of those rates;

and the balance shall be paid into the Supreme Court in the matter of the petition filed pursuant to the said section 105, for the benefit of the parties entitled thereto.

Transfer to purchaser

112. Upon proper evidence of any such sale as aforesaid being adduced, a memorandum of transfer shall be executed by the Master as if he had been ordered by the Supreme Court so to do, as provided in section 105.

Clerk of local court may act as auctioneer

113. When any land is offered for sale by public auction, pursuant to section 105 or to section 110, it shall be lawful, notwithstanding any other enactment, for the clerk of the local court at Renmark, if at the time of the sale being ordered or determined upon, there is no licensed auctioneer carrying on business at Renmark, to act as the auctioneer at the auction without taking out any licence in that behalf. The clerk shall be entitled to be paid by the trust the ordinary remuneration for his services as if he were a licensed auctioneer.

Power to lease property for arrears of rates

114. (1) Where any rates declared by the trust in respect of any ratable land remain unpaid for three months after becoming due, the trust may, with the previous consent of the Governor, and subject as hereinafter appears, take possession of the land, and may hold the same as against any person interested therein, and from time to time grant leases of the same for any period not exceeding seven years. Every deed and other instrument entered into by the secretary in the name or on behalf of the trust as hereinafter appears for effectuating the letting shall be valid against and binding upon the owner of the land or any person claiming through or under him.

Renmark Irrigation Trust Act 1936

(2) The trust shall not take possession of any such land until three months after a notice in writing, setting forth that rates in respect of the land are unpaid, and demanding payment thereof, and stating that in default of payment the trust will take possession thereof under the provisions of this Act, has been served on or posted to every person appearing by the books of the Registrar-General to be a mortgagee of the land, and on or to every person who is rated in respect of the land or is entitled under any lease to the possession of the land whose name and address is known to the trust, or, if there is no such person whose name and address is so known, has been affixed to some conspicuous place on the property. Every such notice served on or posted to any person, or so affixed, shall contain a sufficient description of the land to identify the same, but every lease granted by the trust otherwise in accordance with the provisions of this Act shall be valid, notwithstanding the non-compliance with any of the provisions of this subsection.

(3) On taking possession of any land as aforesaid the trust shall cause to be affixed on some conspicuous part thereof a notice that the land has been taken possession of by the trust under the provision of this section and is to let on lease.

(4) An entry in the minute book of the trust that notice has been served, posted, or affixed as required by subsections (2) and (3) or a certified copy of any such entry, shall be accepted as conclusive evidence of the giving of the notice, and of the rates therein referred to being unpaid.

(5) Every such lease shall be for such term not exceeding seven years as to the trust may seem fit, and shall reserve the best rent which can be reasonably obtained for the land, and shall contain and be subject to such other reservations and such exceptions, covenants, and conditions as to the trust may seem fit.

(6) The secretary shall, upon being directed by the trust so to do, execute in the name and on behalf of the trust a memorandum of lease or other deed or instrument, in such form as he may think fit, leasing the land to the lessee or lessees free from any mortgage, lease, tenancy, or encumbrance.

(7) The Registrar-General shall, on the receipt of a certified copy of the entry in the minute book mentioned in subsection (4), and without any further evidence of title or of the power of the trust to grant the lease, forthwith register the same in the certificate of title relating to the land, on payment of the usual fee therefor. The registration of the lease shall vest in the lessee an indefeasible estate during the term and subject to the provisions of the said lease.

(8) Within three months after demand by any person who, but for the provisions of this section, would be entitled to the possession of the land, made within twenty-one years after the taking possession thereof on the part of the trust, and after payment of all rates due in respect thereof and interest due in respect of those rates, and all costs, charges, and expenses incurred by the trust, in respect of the land, pursuant to this Act or any repealed Act, and interest upon those costs, charges, and expenses, at the rate of six dollars per centum per annum, the trust shall execute under the common seal of the trust a release of the land from all rates due in respect thereof. If the trust makes default in executing the release the Supreme Court may, upon the motion of any person interested in that behalf, compel the trust so to do. Upon the execution of the release, subject to any lease theretofore legally granted by the trust under the provisions of this section, such person or persons shall be entitled to the land, and the possession thereof, as would have been so entitled if this section had not passed, and any tenant of the land under any such lease shall attorn to such person or persons accordingly.

(9) All rent and other moneys payable under any such lease shall, until the execution of a release as hereinbefore mentioned, or the expiration of twenty-one years from the trust taking possession, whichever shall first happen, be received by the trust, and shall be applicable—

- (a) in defraying the expenses of and incidental to carrying into effect the provisions in this section contained, and to the execution of the lease, and the collection of the rents, and the expenses of any repairs and improvements to the land which the trust may consider it necessary to effect;
- (b) in payment to the trust of—
 - (i) all rates in arrear and interest due in respect of those rates; and
 - (ii) interest on the expenses referred to in paragraph (a) at the rate of six dollars per centum per annum calculated from the time of the payment of those expenses; and
 - (iii) any other payments due to the trust in respect of the land.

The residue of any such moneys shall belong to such person or persons as would when the same respectively were received have been entitled to receive the rents and profits of the land if this section had not been passed, and the trust shall deal with such residue in all respects as the Governor shall direct.

(10) Unless some person entitled in that behalf performs the conditions entitling him to demand a release of any land of which the trust has taken possession under the foregoing provisions within twenty-one years after the taking possession, the land and all accumulations of rent and other moneys on account thereof shall vest absolutely in the trust.

(11) Any land which becomes vested in the trust under the provisions hereinbefore mentioned may be sold by the trust at such price and upon such terms as may be determined by the trust, and the proceeds of any such sale may be used by the trust in improving or extending the irrigation works, or for any of the purposes to which the rates may be applied.

(12) The powers conferred on the trust by this section shall be exercisable in addition to any other powers with regard to the sale and letting of land, and to the collection, recovery, and enforcement of the payment of rates, conferred on the trust by this Act.

* * * * *

Renmark Irrigation Trust Act 1936

**PART 9
LOANS**

Power to borrow

122. The trust may, for the purpose of carrying out any of the purposes or objects of the trust, from time to time raise money by way of loan on the security of its rates and other revenue.

Provision for grant of loans to trust

123. (1) The Treasurer shall in each of the three financial years commencing with the year ending on the thirtieth day of June, 1964, pay to a trust account at the Treasury an amount of three hundred and fifty thousand dollars per annum. The payments mentioned in this subsection shall be in addition to the sum of six hundred thousand dollars paid by the Treasurer to the said trust account in respect of the four financial years commencing with the year ending on the thirtieth day of June, 1960, in pursuance of subsection (1) of section 123 of this Act as amended and in force immediately prior to the commencement of the *Renmark Irrigation Trust Act Amendment Act 1963*.

(2) Subject to the provisions of this section the Treasurer may out of the trust account mentioned in subsection (1) of this section pay to the trust from time to time during each of the seven financial years commencing with the year ending on the thirtieth day of June, 1960 such amount or amounts by way of grant or by way of loan as shall be required by the trust for the purposes of this section: Provided that the total sum paid to the trust by way of grant shall not exceed the sum of one million three hundred thousand dollars and the total amount granted by way of loan shall not exceed three hundred and fifty thousand dollars.

The Treasurer may make such arrangements including arrangements for the advance of moneys to the trust as he thinks fit for giving effect to the provisions of this subsection.

(3) The trust shall, during each of the three financial years mentioned in subsection (1) of this section, set aside out of its revenues (or make arrangements satisfactory to the Treasurer in respect thereof) the sum of fifty thousand dollars for the purposes of this section. Any such sums, together with any sums paid by the Treasurer to the trust in pursuance of subsection (2) of this section shall be paid by the trust into a separate account to be called the "Renmark Irrigation Trust Special Account".

The sums which by this section the trust is required to set aside or in respect whereof the trust is required to make arrangements satisfactory to the Treasurer, shall be in addition to the sum of two hundred thousand dollars paid by the trust to the said separate account in respect of the four financial years commencing with the year ending on the thirtieth day of June, 1966 in pursuance of subsection (3) of section 123 of this Act as amended and in force immediately prior to the commencement of the *Renmark Irrigation Trust Act Amendment Act 1963*.

(4) The moneys from time to time standing to the credit of the trust in the said Renmark Irrigation Trust Special Account shall be used and applied by the trust for the purposes of this section and for no other purposes.

(5) The purposes of this section are the undertaking of such works in connection with a comprehensive drainage scheme for the district or the general improvement thereof or the rehabilitation of the irrigation works of the trust as shall from time to time be approved by the Minister.

(6) This Act, without any further appropriation, shall be sufficient authority for making the payments mentioned in subsection (1) of this section.

(7) The amount paid to the trust by way of loan by the Treasurer pursuant to subsection (2) of this section shall be repaid by the trust to the Treasurer with interest computed at the rate of five per centum per annum by equal annual payments to be made on the thirtieth day of June in each of the forty years commencing with the year 1967 or the year next following the completion of the purposes of this section, whichever is the earlier. Upon the completion of all the said payments all liabilities of the trust in respect of all the amounts mentioned in subsection (2) of this section including interest shall be deemed finally to have been determined and extinguished.

(8) The amount of the balance of any of the said amounts, together with interest as aforesaid, for the time being unpaid, together with any amount not exceeding the sum of one hundred and fifty thousand dollars (except with the Treasurer's express approval) for the time being unpaid to the Bank of New South Wales (which latter amount shall rank *pari passu* with the said balance and interest) shall be a first charge on all property for the time being vested in or belonging to the trust.

Provision for further grant and loans to trust

123A. (1) Subject to the provisions of this section the Treasurer may pay to the trust from time to time such amount or amounts not exceeding, when aggregated with all amounts paid to the trust pursuant to this subsection as in force before the commencement of the *Renmark Irrigation Trust Act Amendment Act 1971*, in total the sum of one million six hundred and seventy-five thousand dollars by way of grant or by way of loan as shall be required by the trust for the purposes of this section: Provided that the total sum paid to the trust by way of grant shall not exceed two-sevenths of the total sum paid to the trust by way of grant and by way of loan under this section.

(2) The purposes of this section are the construction by the trust of a pumping station and rising mains and ancillary works associated therewith in accordance with plans from time to time approved by the Minister.

(3) This Act, without further appropriation, shall be sufficient authority for making the payments mentioned in subsection (1) of this section as in force from time to time.

(4) The amount paid to the trust by way of loan by the Treasurer pursuant to subsection (1) of this section, as in force from time to time, together with interest thereon at the rate of five per centum per annum to be calculated as from the thirtieth day of June next following the issue of a certificate given by the Minister to the Treasurer that the purposes of this section have been fulfilled, shall be repaid by the trust to the Treasurer by equal annual payments to be made on the thirtieth day of June in each of the forty years occurring after the thirtieth day of June that next follows the day on which the certificate was given under this subsection. A certificate given by the Minister under this section shall be final and binding on the trust. Upon the completion of all the said payments the liabilities of the trust in respect of all the amounts mentioned in subsection (1) of this section including interest shall be deemed finally to have been determined and extinguished.

(5) The amount of the balance of any of the said amounts which are repayable to the Treasurer together with interest as aforesaid for the time being unpaid and the amount of the balance of any of the amounts paid to the trust pursuant to subsection (2) of section 123 which are repayable to the Treasurer together with interest as provided in subsection (7) of section 123 for the time being unpaid and any amount not exceeding the sum of one hundred and fifty thousand dollars (except with the Treasurer's express approval) for the time being unpaid to the Bank of New South Wales (which last-mentioned amount shall rank *pari passu* with the said respective balances and interests) shall be a first charge on all property for the time being vested in or belonging to the trust.

Renmark Irrigation Trust Act 1936

Provision for further grant for irrigation works and drainage

123B. (1) The Treasurer may from time to time pay to the trust towards the cost of the rehabilitation of the irrigation works of the trust and of the provision of additional drainage within the district in accordance with plans from time to time approved by the Minister any amount which when aggregated with any amount paid pursuant to this subsection before the commencement of the *Renmark Irrigation Trust Act Amendment Act 1972* does not exceed in total the sum of one million eight hundred thousand dollars.

(2) This Act, without further appropriation, shall be sufficient authority for making any payment mentioned in subsection (1) of this section.

Loan for irrigation and water drainage

123BA. (1) Subject to this section, the Treasurer may pay to the trust from time to time such amounts not exceeding in total the sum of one million four hundred and fifty thousand dollars by way of loan, as shall be required by the trust, towards the cost of the rehabilitation of the irrigation works of the trust and of the provision of additional drainage within the district in accordance with plans from time to time approved by the Minister.

(2) The amount paid to the trust by way of loan pursuant to subsection (1) of this section shall be repaid by the trust to the Treasurer with interest at the rate of five per centum per annum, computed from the thirtieth day of June, 1981, by forty equal annual payments to be made on the first day of July in each year commencing on and including the first day of July, 1982.

Loan for domestic water supply

123BB. (1) Subject to this section, the Treasurer may pay to the trust from time to time such amounts not exceeding in total the sum of three hundred and thirteen thousand dollars by way of loan, as shall be required by the trust, towards the cost of the provision of a reticulated water supply within the district in accordance with plans from time to time approved by the Minister.

(2) The amount paid to the trust by way of loan pursuant to subsection (1) of this section shall be repaid by the trust to the Treasurer with interest at the rate of five per centum per annum, computed from the thirtieth day of June, 1981, by forty equal annual payments to be made on the first day of July in each year commencing on and including the first day of July, 1982.

Appropriation

123BC. This Act, without further appropriation, shall be sufficient authority for making any payment mentioned in subsection (1) of section 123BA or subsection (1) of section 123BB of this Act.

Loan and grant for various purposes

123BD. (1) Subject to this section, the Treasurer may pay to the trust from time to time a sum or sums not exceeding in total nine hundred thousand dollars towards the cost of the rehabilitation of the irrigation works of the trust, the provision of additional drainage within the district and the provision of a reticulated water supply all in accordance with plans approved of by the Minister.

(2) Subject to this section, the Treasurer may pay to the trust such amounts not exceeding in total the sum of nine hundred thousand dollars by way of loan, as shall be required by the trust, towards the costs of the rehabilitation of the irrigation works of the trust, the provision of additional drainage within the district and the provision of a reticulated water supply all in accordance with the plans approved of by the Minister.

(3) The amount paid to the trust by way of loan pursuant to subsection (2) of this section shall be repaid with interest at the rate of ten per centum per annum computed from the thirtieth day of June, 1981, by forty equal annual payments to be made on the first day of July in each year commencing on and including the first day of July, 1982.

(4) This section, without further appropriation, shall be sufficient authority for making any payment mentioned in subsection (1) or (2) of this section.

Arrangements for payments to trust

123C. The Treasurer may make such arrangements including arrangements for the advance of moneys to the trust as he thinks fit for giving effect to the provisions of sections 123A and 123B.

Trust to keep special account

123D. (1) The trust shall pay into a separate ADI account to be called the "Renmark Irrigation Trust Special Account (No. 2)" the following:

- (a) All amounts paid to the trust by the Treasurer pursuant to section 123A.
- (b) All amounts paid to the trust from time to time by the Treasurer pursuant to subsection (1) of section 123B.
- (c) All moneys contributed by the trust from time to time for the purposes of subsection (1) of section 123B.
- (ca) All amounts paid to the trust from time to time by the Treasurer pursuant to subsection (1) of section 123BA.
- (cb) All amounts paid to the trust from time to time by the Treasurer pursuant to subsection (1) of section 123BB.
- (cc) All amounts paid to the trust from time to time by the Treasurer pursuant to subsection (1) or subsection (2) of section 123BD.
- (d) All amounts advanced to the trust pursuant to section 123C.

(2) The moneys from time to time standing to the credit of the trust in the said Renmark Irrigation Trust Special Account (No. 2) shall be used and applied by the trust for the purposes for which they have respectively been provided and for no other purposes.

Consent of ratepayers not required to special rate

124. The consent of the ratepayers shall not be required to a special rate declared for the purposes of repaying moneys to the Treasurer under this Part.

Payment to trust on subdivision of ratable land

124A. (1) Where a person intends making an application to the Registrar-General for the division of ratable land he shall, if the division sought would result in the land ceasing to be ratable land, pay to the trust before making his application a sum of money calculated in the prescribed manner.

(2) Where an application is withdrawn or is, for any reason, not successful, the trust shall repay any money paid to it under subsection (1) to the applicant.

(3) The trust shall apply money paid to it under subsection (1) in repayment of money borrowed, or in payment of interest due, by it pursuant to this Part.

(4) The Governor may, by regulation, prescribe the manner in which the sum of money referred to in subsection (1) is to be calculated.

Renmark Irrigation Trust Act 1936

**PART 10
SALE AND LEASING OF LAND**

The Renmark Allotment Board

Constitution and appointment of allotment board

125. (1) The board called "The Renmark Allotment Board" is hereby continued.

(2) The board shall consist of three members, who shall, subject to section 127, be appointed by the Governor after nomination as provided by section 126.

(3) When a vacancy occurs on the board the Governor shall appoint a person to fill the vacancy. If the member whose seat has become vacant was nominated by the Minister, the person to fill the vacancy shall be appointed after nomination by the Minister, and if by the trust, after nomination by the trust.

(4) Notice of every appointment shall be published in the *Government Gazette*.

Nomination of members of board

126. (1) The trust shall nominate two persons who—

- (a) are ratepayers in respect of land within the district; and
- (b) are, under section 11, qualified to be members of the trust,

to be members of the board.

(2) The Minister shall nominate a member of the Land Board to be a member of the board.

Appointment without nomination on failure to nominate

127. If in any case the Minister or the trust fails to give notice in writing to the clerk of the Executive Council of his or its nomination within two months after being requested in writing by the said clerk to make such nomination, the Governor may appoint a member without nomination. The member so appointed shall be deemed to have been appointed after such nomination.

Casual vacancies

128. The seat of a member shall become vacant on—

- (a) his death, lunacy, or bankruptcy, or his compounding with his creditors for less than one hundred cents in the dollar, or his being convicted of an indictable offence; or
- (b) his resignation by notice in writing posted or delivered to the chairman of the board, or, in the case of the chairman of the board, to the Minister; or
- (c) his absence from three consecutive meetings of the board without the leave of the board.

Proceedings and Functions of the Board

Defects in appointment not to invalidate proceedings of board

129. (1) No act or proceeding of the board shall be invalid or illegal in consequence only of the number of the members of the board not being complete at the time of the act or proceeding.

(2) All acts and proceedings of the board shall, notwithstanding the discovery of any defect in the appointment of any member thereof, or that any member was disqualified or disentitled to act, be as valid as if that member had been duly appointed and was qualified and entitled to be and to act, and had acted, as a member of the board, and as if the board had been properly and fully constituted.

Meetings of board

130. The board shall meet whenever required so to do by the Minister, by notice in writing, delivered or sent by post addressed to the several members of the board.

Quorum

131. Any two members of the board shall form a quorum, and may exercise all or any of the powers and authorities vested in the board.

Chairman

132. (1) The member of the board nominated by the Minister shall be the chairman of the board.

(2) The chairman of the board shall have a casting as well as a deliberative vote.

Who to preside at meetings

133. (1) The chairman of the board shall preside at all meetings of the board: Provided that in the case of his absence from a meeting, the members present may elect one of their number to preside at the meeting during such absence.

(2) Any member so presiding shall, for the purposes of the meeting, have all the powers and authorities of the chairman of the board.

Member not to sit at meeting to consider application by himself or his partner or relative

134. No member of the board shall sit at any meeting of the board whilst any application by himself, or on his behalf, or in which he is pecuniarily interested, or by or on behalf of any partner or relative of the member, for an agreement or lease under this Part, is being heard, considered, or dealt with.

Allotment in contravention of section 134 void

135. The decision of the board granting any application by any member of the board, or by any partner or relative of any member and any allotment made in consequence of any such decision, shall, if the provisions of section 134 were not observed with respect to the application, be absolutely void, except as against any person, not being a partner or relative of the member of the board who failed to observe the said provisions, who has purchased any block so allotted *bona fide* for value and without notice of the non-observance.

Powers and duties of board

136. In addition to and without prejudice to any other powers vested in the board, the board shall—

- (a) subject to the approval of the Minister, fix the purchase price, or the annual rent, payable under any agreement or lease under this Part;
- (b) consider and, after adjournment if necessary, accept or reject applications under this Part; and report its decisions thereon, and the allotments (if any) made in consequence thereof, to the trust;

Renmark Irrigation Trust Act 1936

- (c) require the personal attendance of, and, when necessary, examine all applicants, objectors, and necessary witnesses;
- (d) deal with all other matters referred to it by the trust.

Power to require evidence to be upon oath

137. The board may require evidence given before it to be on oath or affirmation.

Power to administer oath or affirmation

138. (1) The chairman of the board or the member presiding at any meeting of the board may, when evidence is taken upon the consideration of any application under this Part, administer an oath or affirmation to any person.

(2) The evidence given by any such person shall be taken down in writing, and be signed by him and countersigned by the chairman of the board or other member presiding as aforesaid.

Punishment for perjury before the board

139. Any person who, upon oath or affirmation administered under section 138, wilfully and corruptly gives any false evidence, shall be guilty of perjury, and shall be liable to be imprisoned for any period not exceeding four years.

Certain Land vested in the Trust

Certain land vested in trust in fee simple

140. The piece of land delineated and coloured blue in the plan signed J.H. McNamara, Surveyor-General, and deposited in the Land Office on the fifth day of August, 1936, and numbered 324, and therein marked "X", shall, so far as the same has not been alienated by the trust, continue to be vested in the trust, to be held by the trust in fee simple for the purposes of this Part.

Land to be offered for sale

141. The land by this Part vested in the trust shall be offered for sale by the trust in blocks of such areas respectively as the Minister, on the recommendation of the board, approves.

Trust may grant Leases of certain Land

Certain land may be leased by trust

142. (1) The several pieces of land delineated and coloured purple in the plan signed J.H. McNamara, Surveyor-General, and deposited in the Land Office on the fifth day of August, 1936, and numbered 324, and all therein marked "Y", shall, on behalf of the Crown, be offered by the trust on leases for grazing, or for grazing and cultivation, in blocks of such areas respectively as the trust determines. The trust may, on behalf of the Crown, grant leases of such blocks as aforesaid to the applicants therefor whose applications have been granted by the board.

(2) Upon payment by the trust to the Minister of Lands of such amount as is fixed by the Minister of Lands on the recommendation of the Land Board, the Governor may grant to the trust the fee simple of the land or any part of any such land, described in subsection (1) of this section.

(3) The land granted to the trust may be disposed of by the trust in manner thought fit by the trust.

(4) If before the grant of the land aforesaid to the trust any lease of any part of the land was granted under subsection (1) of this section and if the lease is still in force at the time of the grant of the land to the trust, the lease shall, subject to this subsection, continue to have the same force as it had before the grant to the trust aforesaid but the lease shall cease to have been granted on behalf of the Crown and any reservation therein to the Crown or to the Minister of Irrigation or other Minister of the Crown or any officers, servants or agents thereof shall be deemed to be a reservation in favour of the trust or, as the case may be, its officers, servants or agents and every such lease shall be construed accordingly.

Allotment of Lands by Trust

Notice of lands offered

143. (1) The trust shall, by notice published in the *Government Gazette*—

- (a) specify what blocks are offered under sections 141 and 142 respectively, and the areas of the blocks and the purchase prices or annual rentals fixed by the board therefor respectively; and
- (b) declare that the blocks may be applied for by persons desiring to purchase or to lease the same (as the case may be), and the conditions upon which the blocks may be purchased or leased respectively; and
- (c) fix a date up to or on which applications for the blocks will be received by the trust.

(2) All applications for any such blocks received by the trust shall be referred to the board.

Simultaneous applications

144. (1) All applications for the same block received up to or on the date fixed under section 143 for receiving applications shall be dealt with as simultaneous applications.

(2) All applications received after the said date on one and the same day, for any block not before applied for, shall also be dealt with as simultaneous applications.

How simultaneous applications to be dealt with

145. Subject to section 146 simultaneous applications may be decided by lot by the chairman of the board where any difficulty arises in deciding who is to be the successful applicant.

Other things being equal, Renmark settler to be preferred

146. The board shall, where any difficulty arises in deciding who is to be the successful applicant, give preference to the applicant (if any) who is the holder in fee simple of land within the district: Provided that the board shall not be bound to grant the application of any applicant.

Board to report, and successful applicants to be gazetted

147. The board shall furnish the trust with the names of the successful applicants, and the trust shall thereupon cause the names to be published in the *Government Gazette*, together with particulars of the blocks allotted to the applicants respectively, and the rent or purchase price payable in each case.

Power to offer lands not taken

148. If any block specified in a notice under section 143 is not applied for within three months from the date fixed by the notice as the date up to or on which applications for the block would be received, or if all applications received for the block are rejected, or if the agreement or lease under which any block is held is forfeited, the trust may re-offer the block at such reduced rent or purchase-money as the board, with the approval of the Minister, deems proper.

Renmark Irrigation Trust Act 1936

*Terms and Conditions of Agreements and Leases***Agreement to purchase**

149. (1) Subject to subsection (2) of this section, in the case of a block offered under section 141, a sum equal to ten per centum of the purchase price fixed by the board for the block shall be payable by the allottee upon allotment, and the allottee shall enter into an agreement with the trust in a form to be approved by the Minister, whereby he shall covenant (*inter alia*) to purchase the block at the purchase price fixed by the board, and to pay the balance of the purchase-money, with interest at the rate of four pounds ten shillings per centum per annum upon the balance for the time being remaining unpaid, by sixty equal half-yearly instalments, which instalments shall be paid in advance: Provided that any allottee who has complied with the terms and conditions of his agreement shall have the option of completing the purchase of his block at any time after the expiration of six years from the date of allotment, upon paying the balance of the purchase price, and interest as aforesaid up to the time of the completion of the purchase.

(2) In the case of an agreement with the trust referred to in subsection (1) of this section entered into on or after the commencement of the *Renmark Irrigation Trust Act Amendment Act 1971* the reference to "four pounds ten shillings per centum" in that subsection shall be read as a reference to "five dollars per centum".

Agreement liable to forfeiture

150. (1) An agreement shall be liable to forfeiture by the trust if any instalment thereunder is in arrear for six months, the purchaser thereunder having had at least three months' previous notice in writing demanding its payment, or if any breach is made of any of the terms or conditions of the agreement.

(2) Upon any such forfeiture all right, interest, or claim either in law or in equity, of the purchaser in or to the land included in the forfeited agreement, or to any moneys paid on account of his purchase, shall be absolutely determined, and the land may be dealt with as the trust, with the approval of the Minister, determines.

Terms and conditions of lease

151. (1) Every lease granted under section 142 shall—

- (a) be in such form as the board approves; and
- (b) be for a term not exceeding twenty-one years; and
- (c) be subject at the expiration of every period of seven years of the term thereof, to revaluation by the board of the land thereby leased and to such (if any) alteration of the rental thereby reserved as the board, upon such revaluation and with the approval of the Minister, determines.

(2) Every such lease shall—

- (a) reserve to the Crown the right to resume without compensation possession of the whole or any part of the land thereby leased upon the expiration of a period of six months after the publication in the *Government Gazette* of a proclamation by the Governor declaring that the land or part is required for a public purpose, or for irrigation or reclamation; and

- (b) reserve to the Minister of Lands or other the Minister of the Crown for the time being performing the functions of that Minister, his officers, servants, and agents, the right at any time to enter upon the land for the purpose of surveying the same, or any part thereof, or for constructing thereon channels or any other work connected with irrigation; and
- (c) contain, *mutatis mutandis*, the extended meaning of "condition of forfeiture" set out in schedule 4 to the *Crown Lands Act 1929*.

Renmark Irrigation Trust Act 1936

**PART 11
RATEPAYERS' MEETINGS, ELECTIONS, AND POLLS****Ratepayers' meetings**

152. (1) Meetings of ratepayers may be called by the trust at any time.

(2) Whenever twenty ratepayers, by writing under their hands, left at the trust office, require the trust to call a meeting, the trust shall do so within two weeks from the day of leaving the notice, the meeting to be held within five weeks from the same day.

General provision for voting at ratepayers' meetings

153. In the absence of special provision, the proceedings at any meeting of ratepayers shall be regulated as follows:

- I. The chairman of the meeting shall in the usual way take a show of hands for every proposition and amendment touching the object of the meeting, and shall declare that proposition carried for which in his opinion the largest show of hands appears:
- II. In cases where it is provided that a poll may be demanded, the chairman shall immediately after he has declared the result of the show of hands publicly inquire from the meeting whether any ratepayers demand a poll, and thereupon any six ratepayers may demand a poll by giving notice in writing of such demand to the chairman of the meeting, and the chairman shall thereupon appoint a day, not later than eight days thereafter, to take a poll of the ratepayers on the subject.

General provisions for voting at elections and polls

154. Every election under this Act, and every poll of ratepayers, shall be taken by ballot, and the following provisions shall apply:

- I. The trust shall appoint a returning officer, who shall, *mutatis mutandis*, have all the powers conferred by *The Ballot Act* of 1862, on a returning officer in case of an election, including the power to appoint deputies, and shall preside at the election or the taking of the poll:
- II. The trust shall appoint a polling-place for the election or poll. The election or the taking of the poll shall commence at nine o'clock in the forenoon, and shall continue open until all the voters present in the polling booth at six o'clock in the afternoon have had an opportunity of voting, and shall then close:
- III. In polls other than elections one scrutineer, to be present at the voting at each polling-place, shall be appointed by the trust, and the persons demanding the poll may, by writing under their hands, or the hands of any three of them, appoint one scrutineer to be so present. In case of an election each candidate may appoint, in writing, one scrutineer to be present in the polling-place:
- IV. At every election or poll the returning officer, if it appears to him expedient, may cause booths to be erected, or rooms to be hired and used as booths, at the polling-place; and the same shall be so divided and allotted into compartments as to the returning officer may seem most convenient. The returning officer shall before the day fixed for taking the votes, cause a copy of the assessment-book to be furnished for use at the polling-place:

- V. At any election or poll every person of the age of eighteen years or upwards, whose name appears as a ratepayer in the assessment-book in force for the time being, shall have one vote. Any such ratepayer who at the time of the holding of the election or poll is distant more than twenty miles from the polling-booth, or is unable to attend owing to illness, may, subject to the proviso hereinafter contained, vote by his attorney under power, such power to be produced to the returning officer at the election or poll: Provided that a statutory declaration by the ratepayer as to his absence or intended absence, or as to such illness, is produced to the returning officer, together with the power. Any such declaration shall be conclusive evidence of the absence or illness, as the case may be:
- VI. Any company or body corporate (except the trust) being the owner or occupier of ratable land appearing in the assessment book for the time being in force may nominate, by writing, not later than the thirty-first day of March in any financial year, a person to vote in respect of that ratable land on behalf of the company or body corporate, and any person so nominated may vote on behalf of the company or body corporate in addition to exercising any rights he may have to vote in his own behalf. Any such nomination shall be deemed to continue until revoked in writing:
- VII. In case of joint tenancy or tenancy in common the vote of the person who first tenders his vote shall be taken, and none of the other joint tenants or tenants in common shall vote at the same election or poll:
- VIII. Where different persons appear in the assessment-book as owner and occupier respectively of the same ratable land, only that one of those persons shall vote in respect of the land who first offers to do so, and if both offer simultaneously the owner only shall so vote:
- IX. Every person entitled to vote shall present himself personally or by attorney, to the returning officer or his deputy, at the polling-place, and state his Christian and surname, abode, profession or occupation, the nature of his qualification, and the place where the land or qualification is situate. The returning officer or deputy shall thereupon place a mark against the name of the voter or of his principal on the copy of the assessment-book, and hand the voter a voting-paper which shall bear the initials of the returning officer or deputy:
- X. In cases of elections, the voting-paper shall contain the Christian and surname of each candidate, arranged in alphabetical order, according to the surnames, and if there are several candidates of the same surname, then according to the Christian name or names of the candidates, and if there are several candidates of the same Christian and surname, then as to those candidates in such order as the returning officer thinks proper. Every such voting-paper shall have a square printed opposite to the name of each candidate, with a number corresponding with the order of nomination inserted in such square:
- Xa. In case of elections, the voting-paper may contain a statement indicating the number of candidates required to be elected and stating that a voter is required to vote for not more nor less than the number of candidates required to be elected:
- XI. In cases other than elections, the voting-paper shall contain a statement of or reference to the particular proposition in respect of which the votes are given, and underneath the statement or reference shall contain, on separate lines, the following sentences, that is to say:

Renmark Irrigation Trust Act 1936

"I agree to the above proposition":

"I object to the above proposition":

And shall have a square printed opposite each such sentence:

- XII. Except as above provided, nothing shall be inserted in or placed on any voting-paper:
- XIII. There shall be provided one or more separate apartments or places forming part of the polling-booth, into which the voter shall, on receiving his voting-paper, immediately retire, and there alone and in private, without interruption, indicate his vote or votes by making a cross within the square on his voting-paper which is opposite the name of each candidate for whom he intends to vote, or opposite the affirmation or negation of the proposition voted upon, and shall then fold the paper and immediately deliver it so folded to the returning officer or his deputy, who shall forthwith publicly, and without opening the same, deposit it in a box to be provided for that purpose; and no voting-paper so deposited in any box shall on any account be taken therefrom unless in the presence of the scrutineers after the close of the poll. No voting-paper shall be received unless it is so folded as to render it impossible for the returning officer, his deputy, or any other person, to see how the vote is given:
- XIV. Any voter wilfully infringing any of the provisions of this section, or obstructing the voting by any unnecessary delay in performing any act within the said polling booth or room, shall be guilty of an offence:
- XV. Any voter may signify to the returning officer or his deputy that by reason of blindness or defective eyesight he is unable to vote without assistance, and thereupon the returning officer or deputy, if satisfied of such inability, shall permit any agent named by the voter to accompany him into the apartment or place for voting to mark the voting-paper on the voter's behalf, and shall receive the paper from the agent and deposit it in the ballot-box:
- XVI. The only persons who shall be allowed to remain in the polling-booth or room shall be the persons about to vote, the returning officer, the deputy returning officers, and the scrutineers:
- XVII. No inquiry shall be permitted at any election or poll as to the right of any person to vote, except as follows, that is to say: The returning officer or his deputy may, or if required by any scrutineer shall, put to any person applying for a voting paper at the time of his so applying, but not afterwards, the following questions, or any of them, and no other:
- (i) Are you the person whose name appears as and as a ratepayer in the assessment-book of the Renmark Irrigation Trust; or (in case of a person claiming to vote as attorney for a ratepayer) Are you the person mentioned as attorney for in the power of attorney under which you claim to vote, and is the person appointing you the person whose name appears as and as a ratepayer in the assessment-book of the Renmark Irrigation Trust; or (in the case of a person claiming to vote as the nominee of a company or body corporate) are you the person nominated to vote on behalf of, and is the company (or body corporate) as whose nominee you claim to vote included as a ratepayer in the assessment-book of the Renmark Irrigation Trust?
 - (ii) Have you already voted at the present poll except in a different capacity from that in which you now claim to vote?

No person shall be entitled to vote unless his answer to the first question, if put, is in the affirmative, and to the second, if put, is in the negative. Any person who wilfully makes a false answer to either of such questions shall be guilty of an offence:

XVIII. Any person who in the same capacity votes a second time, or offers to vote a second time, at any election or poll or who personates any other person for the purpose of voting at any such election or poll, shall be guilty of an offence, and liable to be imprisoned for any term not exceeding six months:

XIX. Immediately before taking the votes the returning officer or deputy returning officer shall exhibit the ballot-box empty. The returning officer or deputy returning officer shall immediately, upon the close of the voting, publicly close and seal the box containing the voting-papers. Any returning officer or deputy returning officer who unlawfully tampers with any ballot-box or voting-paper shall be guilty of an offence, and liable to be imprisoned for any term not exceeding six months:

XX. At the close of the election or poll the returning officer shall—

(a) fix a time, as soon as conveniently may be, for examining the votes and declaring the result of the election or poll;

(b) in the presence of such of the scrutineers as choose to be present, open all the boxes containing voting-papers delivered in at the election or poll;

(c) examine the voting-papers, and reject all such as contain crosses against the names of a larger or less number of persons than are required to be elected, or against both the affirmation and the negation of any proposition, or contain anything other than such matters as are hereinbefore prescribed for such voting-papers;

(d) openly declare the general state of the votes at the close of the election or poll, as the same is made up by him from the voting-papers;

(e) declare the name or names of the person or persons who have been duly elected, and in the event of the number of votes being found to have been equal for any two or more candidates, shall, by his casting-vote, decide which candidate shall be elected, or shall declare any proposition or propositions carried or not, according as the majority of votes shall be for or against the same.

In case of an equality of votes for and against a proposition, the returning officer shall, by his casting-vote, decide for or against the same. No returning officer shall vote at any election or poll at which he is returning officer, except in case of an equality of votes as aforesaid; but this provision shall not apply to a deputy returning officer:

XXI. All voting-papers shall be destroyed by the returning officer immediately after the declaration of the result of the election or poll.

Payment of rates before voting

155. (1) Except where otherwise provided, no person shall be entitled to nominate a candidate for election or to vote at any election or poll of ratepayers unless, before the day of nomination, in the case of an election, or at least ten days before any poll, all sums then due in respect of any rate or rates declared six months prior to the election or poll, upon all land within the district for the payment of which he is primarily liable have been paid.

Renmark Irrigation Trust Act 1936

(2) Any ratepayer or collector of rates or scrutineer appointed under this Act may object to any person voting if any such rates are not paid.

(3) The secretary shall cause a list of all persons whose rates are paid in accordance with the provisions hereof to be prepared for use at every polling-place, and the list shall constitute the voters' roll in respect of that polling-place. For the purpose of the annual elections, the list shall be compiled from the assessment-book for the year ending the thirtieth day of June preceding the day of election.

Powers of returning officer

156. (1) Every returning officer and his deputy shall have authority—

- (a) to maintain and enforce order and keep the peace at any election or poll held by him;
- (b) without any other warrant than this Act, to cause to be arrested and taken before a justice any person reasonably suspected of knowingly and wilfully making a false answer to any of the questions which may be put to him under this Act or any other Act for the time being in force in that behalf, or of personating or attempting to personate any voter, or of attempting unlawfully to vote more than once at the same election or poll, or leaving or attempting to leave the polling-place after having received a voting-paper and before having deposited the same in the box, or causing a disturbance at any election or poll;
- (c) to cause any person to be removed who obstructs the approaches to any polling-place or conducts himself in a disorderly manner there.

(2) All constables and peace officers shall aid the returning officer, his deputy, or other person so appointed as aforesaid in the performance of his duty.

What shall be deemed acts of bribery and corruption

157. The following acts shall be deemed and taken to be acts of bribery and corruption on the part of any candidate, whether committed by the candidate or by any agent authorised to act for him, that is to say:

- I. The giving of money or any other article whatsoever cockades included, to any elector with a view to influencing his vote:
- II. The holding out to him any promise or expectation of profit, advancement, or enrichment in any shape in order to influence his vote, or making use of any threat to an elector, or otherwise intimidating him in any manner with a view to influencing his vote:
- III. The treating of any elector or supplying him with meat, drink, lodging, horse or carriage hire, or conveyance by steam or otherwise whilst at the election or whilst engaged in coming to or going from the election:
- IV. The payment to any elector of any sum of money for acting or joining in any procession during the election, or before or after the same:
- V. The keeping open or allowing to be kept open any public house, shop, booth, or tent, or place of entertainment, whether liquor or refreshment of any kind be distributed at such places of entertainment or not:
- VI. The giving of any dinner, supper, breakfast or other entertainment at any place whatsoever by a candidate to any number of electors with a view to influencing their votes.

Any of the above acts to disqualify

158. The commission of any one of the above-mentioned acts shall, on proof thereof, be held to render void the election of the person committing the act, and to disqualify him from being elected for the same office during the whole period that may intervene between the commission of the same and the time of the next periodical election.

Principals bound by acts of their agents

159. The acts of all authorised agents of a candidate shall, in matters connected with elections, be held to be acts of their principal, if it is proved that the acts were committed with his knowledge or consent.

Acts of bribery and corruption by person not being the authorised agent

160. If any of the above-mentioned acts, hereby declared to be acts of bribery and corruption, is committed by any person not the authorised agent of any candidate, the said person shall be guilty of an offence, and liable to a penalty not exceeding four hundred dollars, or imprisonment not exceeding six months, on the information of the Attorney-General or of any ratepayer of the district.

Penalty on persons receiving or offering reward for voting or withholding vote

161. If—

- (a) any person who has, or claims to have, any right to vote in any election directly or indirectly asks, receives, or takes any money or other reward by way of gift, employment, or other reward whatsoever, for himself or for any of his family or kindred, to give his vote or to abstain from giving his vote in any such election; or
- (b) any person by himself, his friend, or by any person employed by him, by any gift or reward, or by any promise and agreement or security for any gift or reward, procures any person to give his vote in any such election, or to abstain from giving the same,

the offender shall for any such offence forfeit the sum of one hundred dollars to the person who first sues for the same, to be recovered with full costs by action as of debt in the local court of full jurisdiction in or nearest to the district.

No action against candidate for costs or expenses of election

162. No action, suit, or other proceeding shall be maintainable against any person who is a candidate at any election for or in respect of costs or expenses whatsoever in or about or relating to the election.

Provision in the event of impediments of a formal nature

163. (1) No election or poll shall be held to be void in consequence solely of any delay of the holding of the election or poll at the time appointed, or the absence of the returning officer or any deputy returning officer, or any error on the part of any returning officer or deputy returning officer, which does not affect the result of the election or poll, or of any error or impediment of a mere formal nature.

(2) Within the period of twenty days before or after the day appointed for the holding of any election or poll the Governor may extend the time allowed for the holding of the election or poll, and may adopt, or cause to be adopted, such measures as may be necessary to remove any obstacle by which the due course of any election or poll may be impeded, and may supply any deficiency that may otherwise affect the same.

Renmark Irrigation Trust Act 1936

**PART 12
MISCELLANEOUS**

Limitation of liability to make compensation

164. The trust shall not be liable to make compensation for the exercise of its powers under this Act unless a claim for the compensation is made in writing, addressed to the trust, within one year after the right to the compensation arises.

Compensation determined by Land and Valuation Court

165. When any claim for compensation in respect of any of the matters mentioned in the last preceding section is made by any person against the trust, and that person and the trust do not agree on the claim, the question whether any and what compensation shall be made to that person shall be determined by the Land and Valuation Court.

Procedure and powers of court

166. (1) The practice and procedure applicable to and in relation to claims for compensation shall be as prescribed by the appropriate rules of the Supreme Court.

(2) The Land and Valuation Court may give such judgment, and may make such orders for costs and other ancillary matters, on a claim for compensation as it thinks just.

* * * * *

Incomplete works

168. If compensation is sought to be recovered for injury alleged to be the result of the execution of works which at the time of the alleged injury and of the claim to compensation in respect thereof are incomplete, the Land and Valuation Court, upon an application by the trust, made without action and either by summons or by motion upon notice to the claimant, may order the proceedings to be stayed until the completion of the works or for such period as the Land and Valuation Court may consider sufficient for the completion.

Principles in awarding compensation

169. In determining whether any and what compensation is to be made, the court shall apply the following principles:

- I. No compensation shall be made for injury occasioned by taking or diverting surplus or flood water, permanently or temporarily, from any stream, creek, watercourse, lake, or lagoon:
- II. Where, by the execution of any works by the trust, enhancement in value of any property of the claimant wherever situated has been directly or indirectly caused, or any other benefit has been gained or become available to the claimant by reason of the execution of the works, or of any other works by the trust under this Act or any repealed Act, the compensation shall be reduced by the amount of the value of the enhancement or other benefit:
- III. The measure of compensation shall be the direct pecuniary injury to the claimant by the loss of something of substantial benefit previously enjoyed by him, and shall not include remote, indirect, or speculative damages:
- IV. Where the injury complained of appears to be of a permanent or continuing character, or likely to be repeated, a sum may be awarded which the court may declare to be a compensation for all possible future repetitions of the injury, as well as for the injury already done; and after the award no further compensation shall be made to any person in respect of future repetitions of the injury.

One sum may be awarded for all interest affected

170. (1) No compensation shall be made in respect of more than one claim for any act or acts causing, or likely to cause, the same kind of injury to the same property, though the acts may injure the interest in reversion as well as in possession in the property.

(2) Before any sum is awarded as compensation the claimant shall satisfy the court as to the nature and extent of the respective estates or interests of himself and of all other persons (if any) in the property said to be injured, and that he has given sufficient notice to all such other persons of his proceedings to obtain compensation.

(3) All such other persons who may appear before the court shall be entitled to be heard on behalf of their respective interests in the compensation to be awarded, and in giving compensation the court shall award as between the claimant and such other persons the proportions of the compensation to be received by any, or some, or all of them respectively, for all injury actually caused or at any time to be caused to their respective interests in the property.

(4) The said proportion shall be received in full discharge and satisfaction of any rights, claims, or demands whatsoever accrued or to accrue to any of such persons in respect of the act or acts complained of, or any future continuance or repetitions thereof.

(5) Any person to whom any such proportion has been awarded shall have all such remedies and means for recovering the same from the party against whom the claim has been made as though such person had originally been a claimant under the claim on which the award has been made.

Trust not liable for accidental failure of supply

171. The trust shall not be liable to any penalty or damage for not supplying water or electricity if the want of supply arises from drought or other unavoidable cause or accident.

Free passage to be given to supply water

172. Every owner or occupier of land through which a channel, watercourse, or drain is cut, or over which an aqueduct or pipe or electricity main is conducted or carried by the trust, shall give free passage to water of supply or drainage or electricity, as the case may be, turned into the channel, water-course, drain, aqueduct, or pipe or electricity main by the trust.

Penalty for illegally diverting water

173. Any person who—

- (a) illegally diverts or takes the waters supplying, or flowing into, any aqueduct, waterworks, stream, or reservoir in the district; or
- (b) does any unlawful act whereby the water therein may be drawn off or diminished in quantity, or the flow of water therein otherwise improperly affected,

and who does not immediately repair the injury done by him on being required so to do by the trust, so as to restore the said waters to the state in which they were before such act, shall be guilty of an offence against this Act and liable to a penalty not exceeding one hundred dollars for every day during which the said supply of water is diverted or diminished, or otherwise improperly affected by reason of any act done by or by the authority of the said person.

Penalty for destruction of works

174. Any person who unlawfully and maliciously destroys or damages, or attempts to destroy or damage, any irrigation work in the district shall be guilty of an offence and liable to be imprisoned for any term not exceeding ten years.

Renmark Irrigation Trust Act 1936

Penalty for unlawful injury of property

175. Any person who unlawfully destroys or injures any irrigation work in the district shall be guilty of an offence against this Act and liable to a penalty not exceeding two hundred dollars, and to be imprisoned for any term not exceeding six months, in addition to or in substitution for the said pecuniary penalty.

Private works

175A. (1) No person shall connect or cause to be connected any private drain with or make or cause to be made any opening into any main drain without the previous consent in writing of the trust.

(2) Any owner or (with the consent of the owner) any occupier of any land within the district and any two or more such owners or (with the consent of the owners) occupiers in combination may with the previous consent in writing of the trust at his or their own expense construct any private drain or drains on in or adjacent to such land and connect the same with any main drain or any part thereof which is so far completed as to be ready for use.

(3) Every such private drain shall be of such construction dimensions and materials and shall conform to such conditions and shall be connected with such main drain in such manner and form as the trust directs.

(4) Every person who—

- (a) without the consent of the trust connects or causes to be connected any private drain with or makes or causes to be made any opening into any main drain; or
- (b) connects or causes to be connected with any main drain any private drain of different construction dimensions or materials or under other conditions or in any other manner or form than as directed by the trust—

shall be guilty of an offence and shall for every such offence be liable to a penalty of not more than one hundred dollars; and the trust may cut off the connection between such drains.

Connection of private drains

175B. (1) Every person intending to connect a private drain with a main drain shall seven clear days before commencing any works for that purpose make written application to the trust accompanied by a plan showing such particulars of the proposed connection and of the private drain as are required by any direction of the trust.

(2) No such works—

- (a) shall be commenced until the sanction of the trust has been given; or
- (b) shall be proceeded with or executed except under the immediate direction of the proper officer of the trust.

(3) If any works so sanctioned by the trust are not completed within twelve months from the date of such sanction such works shall not be proceeded with or executed without a fresh sanction by the trust, which sanction shall be applied for and obtained in like manner as the original sanction for such works.

Penalty for unlawfully taking water

176. Any person who wrongfully takes or uses any water from any aqueduct, reservoir, watercourse, conduit, or pipe in the district, or from any pipe leading to or from any such reservoir, watercourse, conduit, or pipe, or from any tank or other like place in the district containing water, shall be guilty of an offence against this Act and liable to a penalty not exceeding one hundred dollars, and to be imprisoned for any term not exceeding six months, in addition to or in substitution for the said pecuniary penalty.

Notification of waters required to be kept free

177. (1) The trust may give public notice of all the channels, streams, reservoirs, aqueducts, or other waterworks in the district, whether belonging to or under the control of the trust or not, required for domestic water supply to be kept free from contamination or pollution.

(2) Any person who bathes in any channel, stream, reservoir, aqueduct, or other waterwork comprised in any such notice, or who washes, throws, or causes to enter, or, having charge of, allows to enter therein, any dog or other animal, shall be guilty of an offence against this Act, and liable to a penalty not exceeding twenty dollars.

(3) Any person who throws or conveys or causes or permits to be thrown or conveyed, any rubbish, dirt, filth, or other noisome thing into any such stream, reservoir, aqueduct, or other waterwork comprised in any such notice, or who washes or cleanses therein any cloth, wool, leather, or skin of any animal, or any clothes, or other thing, shall be guilty of an offence against this Act, and liable to a penalty not exceeding one hundred dollars.

(4) Any person who causes the water of any sink, sewer, or drain, or other filthy water belonging to him or under his control to run or be brought into any stream, reservoir, aqueduct, or other waterwork comprised in any such notice, or does any other act whereby the water therein is fouled, shall be guilty of an offence against this Act, and liable to a penalty not exceeding one hundred dollars, and a further sum of five dollars for every day, if more than one, for which the offence continued.

Penalty for nuisance in irrigation area

178. (1) If—

- (a) any owner or occupier of land does or permits to be done on his land any act or permits to remain thereon any water or thing likely to injure the water supply in the district; and
- (b) notice to discontinue or remove the same is given to him in writing by the trust; and
- (c) he neglects or refuses to discontinue the act or to remove the matter or thing,

he shall be guilty of an offence against this Act, and liable to a penalty not exceeding one hundred dollars, and a further penalty not exceeding twenty dollars for every day, if more than one, for which the offence continues.

(2) This section shall not apply to the ordinary grazing of animals, except pigs and geese, on any such land.

Disqualified person acting as member or auditor

179. Any person who at the time of his election to the office of member or auditor to his knowledge is disqualified to act in that office, or who after his election becomes disqualified, and who in any manner acts as a member or auditor after his election, and his knowledge of the existence of his disqualification, shall be guilty of an offence against this Act, and liable to a penalty not exceeding twenty dollars.

Renmark Irrigation Trust Act 1936

Disqualified person to give notice of disqualification

180. Any person elected to the office of member or auditor, and who at the time of his election is disqualified, or who after his election becomes disqualified, and who does not, within fourteen days after having knowledge of his election and the existence of his disqualification, deliver or send through the post to the chairman, or, if there is no chairman, to the Minister, a notice stating the fact of such disqualification to act as member or auditor, as the case may be, with the grounds thereof, shall be guilty of an offence against this Act, and liable to a penalty not exceeding twenty dollars.

Person elected member refusing to act

181. Any person duly qualified and not exempt who, having been duly elected as member, refuses to take upon himself the office of member and to act in the same, or who neglects so to do for three consecutive ordinary meetings of the trust after his election, and any qualified person who has taken upon himself the office of member, and who, without the licence of the trust, resigns such office in manner herein provided, or, without such licence, absents himself from the State, for three consecutive ordinary meetings, or without reasonable cause absents himself from three consecutive ordinary meetings of the trust, shall be guilty of an offence against this Act, and liable to a penalty not exceeding forty dollars.

Person elected as member and failing to defend his title to the office

182. Any member who being duly qualified and duly elected is called upon in manner by this Act prescribed to defend his title to his office, and by default or by collusion with any person laying the complaint against him, suffers an order to be made declaring his seat to be vacant, or that he is not a member, shall be guilty of an offence against this Act, and liable to a penalty not exceeding forty dollars.

Penalty on minors voting at elections or acting as members

183. Any person who, not being eighteen years of age, votes at any election or poll held under this Act, or sits or acts as a member under this Act, shall be guilty of an offence against this Act, and liable to a penalty not exceeding twenty dollars.

Shareholder in company which is interested, voting

184. Any member who is a shareholder or a member of any incorporated company, and who votes as member of the trust on any question concerning any contract or dealing in which the company of which he is a shareholder or member is interested, shall be guilty of an offence against this Act and liable to a penalty not exceeding forty dollars.

Penalty for obstructing trust, officers, etc.

185. Any person who at any time obstructs the trust, or any officer or person employed by the trust in the performance of anything which they are respectively empowered to do by this or any other Act shall be guilty of an offence against this Act and liable to a penalty not exceeding twenty dollars.

Persons examined on oath, etc., making false statement

186. Any person who is examined upon oath, affirmation, or declaration by any court or the trust, or any justice or justices or other person, under the authority of this Act, and who wilfully, upon any such examination, makes any false statement, shall be guilty of wilful and corrupt perjury, and be punished accordingly.

Forgery

187. Any person who forges or alters, or utters, uses, disposes of, or puts off, knowing the same to be forged or altered, any document or writing required or authorised by this Act, or any signature thereto or seal thereon, shall be guilty of an offence, and liable to be imprisoned for any term not exceeding seven years with hard labour.

Persons publishing false statements in *Gazette*

188. Any person who—

- (a) wilfully publishes in the *Government Gazette* any false petition, notice, or other document in any matter in which a petition, notice, or other document is by this Act required or authorised to be published in the *Government Gazette*; or
- (b) wilfully posts any false notice in any matter of which public notice or any notice is by this Act required to be given; or
- (c) tears down, mutilates, defaces, or obliterates any public notice or other document posted in any place within the district under the authority of this Act,

shall be guilty of an offence against this Act and liable to a penalty of not less than five dollars or more than fifty dollars.

Non-performance of provisions of this Act

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

Penalty for offence against this Act

190. Every person guilty of an offence against this Act shall, for every such offence, be liable to the penalty expressly imposed by this Act or by any regulation or by-law in force in that behalf, and, if no other penalty be imposed, to a penalty not exceeding fifty dollars.

Power to remit fines

191. The trust may remit any pecuniary penalty imposed by or under this Act or any repealed Act, or any penalty which the trust is authorised to receive by virtue of this Act, or any repealed Act, in whole or in part, except any penalty imposed for neglect or refusal to act as member, or for any offence against the provisions of section 157 or section 188.

Conviction not to bar action

192. The imposition of a penalty for any offence under this Act shall not affect any action or other remedy at the instance of the trust or any person for compensation for or the prevention of injury that may result from the offence.

Service of notices and demands

193. (1) Save where it is otherwise expressly provided, every notice or demand which by this Act is required to be given to the owner of any building or land shall be addressed to the owner of the building or land, and shall be served on the occupier thereof (if any), or left with some adult inmate of his abode, or, if there is no occupier, shall be put up on some conspicuous part of the building or land. It shall not be necessary in any such notice or demand to name the owner of any such building or land.

(2) When the owner of any such building or land and his residence are known to the trust a copy of every such notice or demand shall, if the owner is resident within the district, be served on the owner or left with some adult inmate of his abode, and if the owner is not resident within the district, be sent by the post addressed to the owner at his residence.

Renmark Irrigation Trust Act 1936

Penalties exclusive of other damages

194. 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 trust or any person for any damage sustained. The payment of the penalty shall not bar or affect the right of the trust or any other person to bring an action against such person for such damage.

Service of notices and legal proceedings

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

Authentication of documents by the trust

196. Every order, summons, notice, or other document requiring to be authenticated by the trust may be sufficiently authenticated without the common seal of the trust, if signed by the chairman, by two members, or by the secretary.

Representation of trust in cases of bankruptcy

197. In the event of any person against whom the trust 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 trust appointed by the chairman in writing under his hand, may represent the trust in all proceedings relating to the bankruptcy or assignment of the estate of that person as if the claim or demand had been the claim or demand of the officer.

Representation of trust before justices and in local court

198. In all proceedings before justices or any local court any officer of the trust appointed by the chairman in writing under his hand may represent the trust in all respects as though the officer had been the party concerned.

Reimbursement of officer

199. The officer appointed as aforesaid shall be reimbursed out of the trust funds all damages, costs, charges, and expenses to which he may be put or with which he may become chargeable by reason of anything contained in either of the two last preceding sections.

Powers of entry by officers of trust

200. The trust shall, for the purposes of this Act, have power by its members or officers to enter at all reasonable hours into and upon any building or land within the irrigation area for the purpose of executing any work or making any inspection authorised to be executed or made by the trust under this Act, without being liable to any legal proceedings on account thereof: Provided that the trust, its members or officers, shall do as little damage as may be, and making compensation, as provided by this Act, for any damage necessarily done.

No writ of *quo warranto* allowed to try title to any office

201. No writ of *quo warranto* or information in the nature of a *quo warranto* or other proceeding shall issue, or be filed or had, or taken in the Supreme Court, to try or question the title of the trust or the title of any person to act as member, chairman, or auditor, or in any office or place in or in the gift of the trust.

No *mandamus* to issue from Supreme Court

202. No *mandamus* shall issue from the Supreme Court to admit or restore to office, or to compel the trust to proceed to the election or appointment of any member, chairman, auditor, officer, or other person to any office or place in or in the gift of the trust, or to compel any person or persons to proceed to any ballot, or to compel the production or delivery of any books, voting-papers, or other documents or papers, to the production or possession whereof the trust or person may be entitled under this Act.

Proceedings for trying title of member, etc.

203. The proceedings—

- (a) for trying the title of a member, chairman, auditor, officer, or other person to his office or place; or
- (b) trying the right of any person to be admitted or restored to any such office or place; or
- (c) to compel his restoration or admission; or
- (d) to compel the trust to proceed to any election or appointment; or
- (e) to try the validity of any assessment or rate; or
- (f) to compel the production or delivery of any books, voting-papers, or other documents or papers, to the production or possession whereof the trust or any person may be entitled under this Act,

shall be had and taken before, and determined by, a court of summary jurisdiction in a summary way.

Jurisdiction of court

204. (1) The complaint for the purposes of the last preceding section may be laid at the instance of the trust, or by any ratepayer or other person interested.

(2) The court of summary jurisdiction may make an order—

- (a) declaring any person to be not entitled to the office or place then possessed by him, and that the office or place is vacant; or that the complainant is entitled to the said office or place; or
- (b) commanding the trust to proceed to take the necessary steps for and hold any election, or make any appointment, or to compel any person or persons to proceed to any ballot that may be necessary; or
- (c) quashing any assessment or rate which for any reason is invalid; or
- (d) to compel the production or delivery of any books, voting-papers, or documents by or to the trust, or any officer thereof, to or by any person.

(3) No order to admit or restore any person to any office or place shall be made whilst any other person is in possession of such office or place.

Procedure on non-compliance with order

205. (1) On non-compliance with any order made by any court of summary jurisdiction under the provisions hereof, on complaint laid at the instance of the trust, or by any ratepayer or person interested, any court of summary jurisdiction may order any sum of money to be paid by or to the trust, or any officer thereof, to or by any person, as compensation for any injury sustained by reason of the non-compliance with any such order, and may order any such officer or person to be imprisoned, either for a specified time, not exceeding six months, or until the order aforesaid is obeyed. Any such imprisonment may be ordered in addition to and without any order for payment of money as aforesaid.

Renmark Irrigation Trust Act 1936

(2) On non-compliance with any order commanding anything to be done by the trust, any court of summary jurisdiction may order the payment of any sum of money by, or the imprisonment of, any person who would before the twenty-third day of December 1893, have been liable to attachment, or subject to process of contempt for disobedience to any peremptory writ of *mandamus* issued out of the Supreme Court commanding the trust to do the act directed by the order.

Time within which proceedings may be taken

206. (1) No proceedings to try the title of any person to any office or place in or in the gift of the trust shall be had or taken except upon a complaint laid within two months from the time at which the person whose title is disputed was appointed or elected, or the cause arose by reason whereof such person is liable to be ousted, whichever last happens.

(2) No proceedings to try the validity of any assessment or rate shall be had or taken except upon a complaint laid within two months from the time at which notice of the assessment or rate appeared in the *Government Gazette*.

Complaints

207. A complaint may be made at the instance of the trust or any person.

Magistrate not disqualified because a ratepayer

208. A special magistrate or justice shall not be disqualified from acting on an appeal in respect of an assessment, or in proceedings for the recovery of rates or under the penal sections of this Act, by reason of his being a ratepayer.

Recovery of penalties

209. (1) The proceedings to recover any penalty under this Act or any by-law or regulation of the trust shall be commenced within three months from the commission of the offence.

(2) The money arising from any such penalty shall, except as hereinbefore provided, after payment of the expenses attending the recovery thereof, be paid one moiety thereof to the informer or person suing for the same, and the other moiety thereof to His Majesty for the public uses of the State and the support of the Government thereof.

On non-payment of penalties, etc., justice may imprison

210. In every case of the adjudication of a fine or pecuniary penalty or amends under this Act, or any by-law or regulation of the trust, and of the non-payment of the fine or pecuniary penalty or amends, any justice may commit the offender or person making default in payment to any prison in the State for any time not exceeding three months, the imprisonment to cease on payment of the sum due and the costs of the proceedings as may have been taken for the recovery thereof. This section shall not affect any remedy under the *Justices Act 1921* for the recovery of any fine or penalty or amends.

Prosecution of officers

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

(2) Every member, his heirs, executors, and administrators, shall be indemnified by the trust for all payments made or liabilities incurred in respect of any acts done by him, and of all losses, costs, and damages which he may incur in the *bona fide* execution of the powers granted to him by this or any other Act.

Actions against members

212. (1) All prosecutions for the infliction of pecuniary penalties upon, and all actions against, any member, chairman, officer, or person for anything done or omitted to be done in pursuance of this Act shall be commenced within six months after the happening of the cause of prosecution or action, and not otherwise except as hereinbefore to the contrary provided.

(2) The defendant in any such action may plead for the general issue and give this Act and the special matter in evidence at the trial.

(3) The plaintiff shall not recover in any such action if tender of sufficient amends is made before action brought, or if after action brought the defendant pays into court sufficient amends; but in such last-mentioned case the plaintiff shall recover his costs of suit up to the time of payment into court, and if a judgment passes for the defendant, or the plaintiff becomes nonsuit or discontinues, or the defendant otherwise recovers judgment, he shall recover full costs as between solicitor and client, and have his remedy for the same in the usual way.

Gazette evidence of appointments and elections notified therein

213. The *Government Gazette* containing a notice of the appointment or election of any person to any office in the trust shall be conclusive evidence of the appointment or election, except in any proceeding brought to try the title of the person so appointed or elected.

Gazette evidence of resolution of trust notified therein

214. The *Government Gazette* containing a notice that any resolution was passed or order made at a meeting of the trust shall be conclusive evidence of the resolution being passed or order made, and of the meeting being lawfully convened, and of any facts stated in the notice relating to the majority by which the resolution was passed, and the number and proportion of members present.

Gazette conclusive evidence of proclamation and prima facie evidence of facts stated therein

215. (1) The *Government Gazette* containing any proclamation or order made by the Governor under this Act, or any repealed Act, shall be conclusive evidence of the fact, tenor, and validity of the proclamation or order, and shall be evidence of the facts stated, recited, or assumed therein.

(2) No such proclamation shall be invalid by reason of anything required as preliminary thereto not having been duly done.

Assessment book and certified copies of or extracts therefrom made evidence

216. The assessment book or any copy of or extract therefrom, certified as a true copy or extract under the hand of the chairman or the secretary, or the hands of two members, shall be conclusive evidence, except on proceedings to quash the assessment, that the assessment was duly made, and, except as aforesaid, the production of the *Government Gazette* containing a notice in any of the forms given in schedule 4, or to the like effect, with such modifications as circumstances may have required, shall be evidence of the facts in the notice stated or referred to.

Gazette containing notice of the making of a rate conclusive evidence

217. The *Government Gazette* containing a notice of the declaring of any rate in the form in schedule 7, or in a form to the like effect, shall, except on proceedings to quash the rate, be conclusive evidence that the rate has been duly declared.

Ratepayers entitled to signed copy of by-laws on payment of one dollar

218. Every ratepayer shall be entitled, on payment of one dollar at the trust office, to receive a printed copy signed, by the chairman, secretary, or two members, of all by-laws and regulations of the trust in force for the time being in the district, or any part thereof.

Renmark Irrigation Trust Act 1936

By-laws, minutes, contracts, etc., or certified copies, evidence

219. Regulations, by-laws, minutes of the trust or any committee thereof, and contracts, specifications, plans, estimates, and other documents in the hands of the trust by this Act or any repealed Act required or authorised, and any copy thereof or extract therefrom purporting to be signed by the chairman, two members, or the secretary, shall be receivable in any proceedings before any court or person as evidence of the matters therein contained, and, in the case of regulations or by-laws, shall be evidence of the passing, confirmation, and publication thereof, and of the performance of the requirements of this Act in respect thereof.

Saving of rules of evidence

220. Nothing in this Act contained shall prevent proof being given of the tenure of any office by evidence of acting in the office, nor any notice purporting to be a notice given by the trust, and published or posted as by this Act, or any repealed Act directed, or a copy thereof, being given in evidence in any proceeding against the trust, or any officer thereof, or shall negative any statutory or other rule of law as to evidence or presumptions therefrom.

Limitation of liability of trustee, agent, or attorney

221. 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*.

Declarations

222. (1) Any declaration required by this Act may be made before a notary public, justice, or commissioner for taking affidavits in the Supreme Court, and shall be sufficient if it purports to be a solemn and sincere declaration made in pursuance of this Act.

(2) Any person who wilfully makes a false declaration purporting to be made in pursuance of this Act shall be guilty of perjury.

Advertisements to be paid for by trust

223. The cost of any advertisement required by this Act shall be paid by the trust or person whose action immediately necessitates the advertisement, and the Minister may require payment of the cost before causing any advertisement to be inserted.

Preservation of rights

224. (1) Nothing in this Act contained or hereby implied shall limit, prejudice, or affect any estate, interest, power, or right possessed by or conferred on the Government of South Australia.

(2) Nothing herein contained or implied shall impose any liability or responsibility upon the Government of South Australia in any way relating to the Renmark Irrigation Settlement, nor shall the Government undertake any such liability or responsibility.

Power to include portions of district in water districts under Waterworks Act

224A. Notwithstanding any provision of this Act, the Governor may, in exercise of the powers conferred by section 6 of the *Waterworks Act 1932-1936*, from time to time by proclamation made pursuant to the said section declare any part of the Renmark Irrigation District to be a water district or to be included in a water district for the purposes of the *Waterworks Act 1932-1936*. A proclamation for the purpose aforesaid shall be made only on the recommendation of the trust.

Commonage for municipality of Renmark

225. (1) The piece of land coloured brown and marked "Z" in the plan signed J.H. McNamara, Surveyor-General, and deposited in the Land Office on the fifth day of August, 1936, and numbered 324 shall continue to be dedicated as commonage for the Corporation of the Town of Renmark and under the control of the council of the said corporation for the benefit of the ratepayers thereof, on such terms as the Minister approves.

(2) Upon the publication in the *Government Gazette* of a proclamation by the Governor declaring that the said piece of land or any part thereof has been resumed for a public purpose or for settlement, the said dedication and control shall absolutely cease as to the whole or part (as the case may be) of the said piece of land.

Power to grant channel land to trust

225A. Upon payment by the trust to the Minister of Lands of such amount as is fixed by the Minister of Lands on the recommendation of the Land Board, the Governor may grant to the trust the fee simple of any land of the Crown upon which or upon any part of which is situated any channel, drain or other work which has been constructed or is maintained by the trust.

Validation of certain order, proclamation, and leases and agreements for sale and purchase

226. (1) The order dated the seventh day of November, 1921, whereby the Renmark Irrigation Trust No. 1 did order that certain pieces of land, portions of Nelbuck Street and therein described, were to be discontinued as roads and to be deemed thenceforth as Crown Lands (which said order was confirmed by the Governor by notice published in the *Government Gazette* on the twenty-sixth day of January, 1922) shall be deemed to have been lawfully made, and shall have the same force and effect as if section 3 of the *Renmark Irrigation Trusts Act Amendment Act 1925* had been enacted before the said order had been made and confirmed as aforesaid.

(2) The proclamation made by the Governor on the twenty-eighth day of February, 1923, and published in the *Government Gazette* on the seventeenth day of May, 1923, whereby the Governor set aside the whole of blocks 82A, 83A, 84A, 85A, 86A, 87A, 88A, 89A, 90A, 91A, and 92A, part of Block E, Renmark Irrigation District, County of Hamley, exclusive of necessary roads, for allotment pursuant to the *Discharged Soldiers Settlement Acts, 1917 to 1919*, to discharged soldiers shall be deemed to have been lawfully made, and shall have the same force and effect as if section 3 of the *Renmark Irrigation Trusts Acts Amendment Act 1925* and subsection (1) of this section had been enacted before the making of the said proclamation.

(3) All leases and agreements for sale and purchase issued in respect of the land described in subsection (2) hereof shall be deemed to have been lawfully issued, and shall have the same force and effect as if section 3 of the *Renmark Irrigation Trusts Acts Amendment Act 1925* and subsections (1) and (2) of this section had been enacted before the issue thereof.

Amendment of Insolvent Act 1886

227. The words "or to any Trust constituted by or under *The Renmark Irrigation Trusts Act, 1893*," are hereby inserted in section 219 of *The Insolvent Act 1886* after the words "District Council".

Renmark Irrigation Trust Act 1936

SCHEDULES

SCHEDULE 1

Acts Consolidated and Repealed

Number and Year of Act	Short Title
No. 397 of 1887	<i>The Chaffey Brothers Irrigation Works Act 1887.</i>
No. 578 of 1893	<i>The Renmark Irrigation Trusts Act 1893.</i>
No. 650 of 1896	<i>The Renmark Irrigation Trusts Loan Act 1896.</i>
No. 733 of 1900	<i>The Renmark Irrigation Trusts Loan Amendment Act 1900.</i>
No. 806 of 1902	<i>The Chaffey Brothers Amendment Act 1902.</i>
No. 933 of 1907	<i>The Renmark Irrigation Trusts Acts Amendment Act 1907.</i>
No. 1179 of 1914	<i>The Renmark Irrigation Trusts Acts Further Amendment Act 1914.</i>
No. 1400 of 1919	<i>Renmark Irrigation Trusts Acts Further Amendment Act 1919.</i>
No. 1432 of 1920	<i>Renmark Irrigation Trusts Acts Further Amendment Act 1920.</i>
No. 1520 of 1922	<i>Renmark Irrigation Trusts Act Further Amendment Act 1922.</i>
No. 1562 of 1923	<i>Renmark Irrigation Trusts Acts Amendment Act 1923.</i>
No. 1684 of 1925	<i>Renmark Irrigation Trusts Acts Amendment Act 1925.</i>
No. 1897 of 1929	<i>Renmark Irrigation Trusts Act Amendment Act 1929.</i>
No. 1974 of 1930	<i>Renmark Irrigation Trusts Act 1930.</i>
No. 2005 of 1931	<i>Renmark Irrigation Trusts Act 1931.</i>
No. 2129 of 1933	<i>Renmark Irrigation Trusts Act 1933.</i>

SCHEDULE 2

Nomination of Member

Renmark Irrigation District. Annual election, 19 [or as the case may be]

We, the undersigned ratepayers of the district, do hereby nominate [here state names of candidate], of as a candidate for the office of member of the trust at the election to be held for the district on the day of 19 [fill in date of nomination day].

[Signatures of nominators]

I, the abovenamed candidate, do hereby consent to the above nomination, and I do hereby declare that I am qualified to hold the office of member of the Renmark Irrigation Trust.

[Candidate's Signature]

Nomination of Auditor

Renmark Irrigation District. Annual election, 19 [or as the case may be]

We, the undersigned ratepayers of the district, hereby nominate [here state names of candidate] as a candidate for the office of auditor of the district at the election to be held on the day of 19 [fill in date of nomination day].

[Signatures of nominators]

I, the above-named [candidate's name], do hereby consent to the above nomination and I do hereby declare that I am qualified to hold the office of auditor of the Renmark Irrigation Trust.

[Candidate's signature]

SCHEDULE 5

Notice of Appeal from Assessment

Take notice that I appeal to the Renmark Irrigation Trust against the assessment of my land, section (or block or lot) _____ assessment No . _____ [or as the case may be] on the following grounds [here set forth grounds of appeal].

[Signature of appellant, by himself or his agent.]

To the secretary of the Renmark Irrigation Trust.

* * * * *

SCHEDULE 7

Notice of General or Special Rate

At a meeting of the Renmark Irrigation Trust, duly held on the _____ day of _____, 19____, a general (or special) rate for the half year ending _____ was declared of _____ per hectare upon the land included in the assessment for the district; and all persons liable are required to pay the amount of the rate, according to the assessment, to the secretary (or other officer), at the trust office.

Dated this _____ day of _____ 19____.

(Signed) A.B., Chairman (or Secretary) of
the Renmark Irrigation Trust.

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 9 of The Public General Acts of South Australia 1837-1975 at page 380.
- Legislative history since 3 February 1976 (**entries in bold type indicate amendments incorporated since the last reprint**) is as follows:

Section 5:	definition of "ratable land" substituted by 64, 1990, s. 3(a) definition of "single holding" inserted by 64, 1990, s. 3(b)
Section 13 I:	amended by 59, 1994, Sched. 2
Section 60:	amended by 60, 1978, s. 2
Section 64:	substituted by 60, 1978, s. 3
Section 73:	amended by 60, 1978, s. 4(a), (c)
Section 73IIIa:	repealed by 60, 1978, s. 4(b)
Section 78(1):	substituted by 64, 1990, s. 4
Section 83:	substituted by 64, 1990, s. 5
Section 92(2):	substituted by 64, 1990, s. 6
Section 97(1):	amended by 33, 1999, Sched. (item 44(a))
Section 97(2):	amended by 33, 1999, Sched. (item 44(b))
Section 97(3):	amended by 33, 1999, Sched. (item 44(c))
Section 100:	amended and redesignated as s. 100(1) by 14, 1984, s. 3
Section 100(2) and (3):	inserted by 14, 1984, s. 3(c)
Section 104(1):	amended by 14, 1984, s. 4
Section 105(2):	amended by 14, 1984, s. 5
Section 111:	amended by 14, 1984, s. 6
Section 114(7):	amended by 9, 1990, s. 42 (Sched.)
Section 114(8):	amended by 14, 1984, s. 7(a), (b)
Section 114(9):	amended by 14, 1984, s. 7(c)

Part 8 comprising ss. 115 - 121T and heading repealed by 60, 1999, Sched.

Section 123BA(2):	amended by 17, 1977, s. 2
Section 123BB(2):	amended by 17, 1977, s. 3
Section 123BD:	inserted by 17, 1977, s. 4
Section 123D(1):	amended by 17, 1977, s. 5; 33, 1999, Sched. (item 44(d))
Section 124A:	inserted by 9, 1985, s. 3
Section 151(2):	amended by 28, 1978, s. 43
Section 154 XIV:	amended by 59, 1994, Sched. 2
Section 154 XVII - XIX:	amended by 59, 1994, Sched. 2
Section 160:	amended by 59, 1994, Sched. 2
Section 174:	amended by 59, 1994, Sched. 2
Section 187:	amended by 59, 1994, Sched. 2
Section 207:	substituted by 59, 1994, Sched. 2