

South Australia

## **Irrigation Regulations 2009**

under the *Irrigation Act 2009*

---

### **Contents**

- 1 Short title
- 2 Commencement
- 3 Interpretation
- 4 Establishment of trust
- 5 Notice of discontinuance or reduction of supply
- 6 Order of irrigation of properties
- 7 Damage to meter
- 8 Ownership of meter
- 9 Testing meters
- 10 Assessment of quantity of water supplied
- 11 Protection of channels and other works
- 12 Interest on charges
- 13 Recovery rights
- 14 Service of notices or other documents

### Schedule 1—Fees

---

#### **1—Short title**

These regulations may be cited as the *Irrigation Regulations 2009*.

#### **2—Commencement**

These regulations will come into operation on the day on which the *Irrigation Act 2009* comes into operation.

#### **3—Interpretation**

In these regulations—

*Act* means the *Irrigation Act 2009*.

#### **4—Establishment of trust**

For the purposes of subparagraph (ii) of section 5(4)(a) of the Act—

- (a) the prescribed manner and form for verifying a consent to vest property in the trust is by notice in writing, addressed to the Minister and signed by the person consenting; and
- (b) a prescribed interest would be any of the following:
  - (i) an interest as owner of the property;
  - (ii) an interest by virtue of a mortgage or other form of charge.

## **5—Notice of discontinuance or reduction of supply**

- (1) Subject to this regulation, an irrigation trust must give the owner or occupier of any serviced property reasonable notice of its intention to restrict or suspend the supply or delivery of water to the property.
- (2) In an emergency notice need not be given if it is not reasonably practicable to do so.
- (3) This regulation is subject to the terms and conditions on which an irrigation trust supplies water.

## **6—Order of irrigation of properties**

Serviced properties will be supplied with water in the order determined by the irrigation trust.

## **7—Damage to meter**

- (1) If the owner or occupier of a serviced property knows or suspects that—
  - (a) a meter installed to measure the quantity of water supplied by the irrigation trust to the property has been damaged or is not measuring the quantity of water supplied accurately; or
  - (b) any part of the irrigation system provided by the trust has been damaged or is not functioning properly,

he or she must report the matter to the trust.

Maximum penalty: \$2 500.

- (2) If the owner or occupier of a serviced property damages, removes, repairs or in any way interferes with a meter installed to measure the quantity of water supplied by the trust to the serviced property (without the authority of the trust), in addition to any other penalty provided under the Act, the trust may—
  - (a) cut off the supply of water; and
  - (b) refuse to restore the supply,

until another meter has been installed or the existing meter repaired and the cost of replacing or repairing the meter and cutting off and restoring supply has been paid to the trust.

## **8—Ownership of meter**

The ownership of a meter installed to measure the quantity of water supplied by an irrigation trust to a serviced property is vested in the trust whether it is supplied by the trust or the owner of the serviced property or by any other person.

## **9—Testing meters**

- (1) If a person liable to pay a charge for water supplied by an irrigation trust is dissatisfied with the accuracy of the meter that measured the quantity of water supplied, he or she may, on payment of the fee specified by the trust, request the trust to test the meter.
- (2) An irrigation trust may dispense with the requirement to pay the fee referred to in subregulation (1).

- (3) If, on examining or testing a meter (whether at the request of a person under subregulation (1) or not), the trust finds—
  - (a) that the quantity of water as measured by the meter was not more than 5% more or less than the quantity of water actually supplied, the quantity of water measured by the meter will be the quantity in respect of which the charge is payable;
  - (b) that the quantity of water as measured by the meter was inaccurate by more than 5% and the trust is able to determine the degree of inaccuracy, the trust may serve a further notice under section 50 of the Act (but only in respect of any charges that remain outstanding) based on the quantity of water supplied appropriately adjusted;
  - (c) that the quantity of water as measured by the meter was inaccurate by more than 5% but the trust is unable to determine the degree of inaccuracy, the trust may serve a further notice under section 50 of the Act (but only in respect of charges that remain outstanding) based on the trust's assessment of the quantity of water supplied.
- (4) If the trust finds that the quantity of water as measured by the meter was inaccurate by more than 5%, the trust must refund the fee referred to in subregulation (1).

#### **10—Assessment of quantity of water supplied**

- (1) An irrigation trust may make an assessment of the quantity of water supplied by it to a serviced property in the following circumstances:
  - (a) a meter has not been installed to measure the quantity of water supplied;
  - (b) the meter that has been installed has not been approved for that purpose by the trust;
  - (c) the meter has been removed or a pipe by-passing the meter has been installed;
  - (d) in the circumstances referred to in regulation 9(3)(c).
- (2) An assessment under subregulation (1) by an irrigation trust of the quantity of water supplied to a serviced property will, in the absence of proof to the contrary, be taken to be the quantity of water supplied unless it is proved that the assessment was not made in good faith.

#### **11—Protection of channels and other works**

- (1) A person must not permit cattle, sheep, horses or other stock to be in a channel or on an embankment or other works forming part of the irrigation system provided by the trust without the written approval of the trust.  
Maximum penalty: \$2 500.
- (2) A person must not deposit any rubbish or other waste material in a channel or on an embankment or other works forming part of the irrigation system provided by the trust.  
Maximum penalty: \$2 500.

## 12—Interest on charges

- (1) For the purposes of section 46(2) of the Act, the prescribed rate is—
  - (a) 5% of the charges that are unpaid after the first month; and
  - (b) 1% of the charges that are unpaid at the expiration of each subsequent month.
- (2) For the purposes of section 46(3) of the Act, the prescribed period is 1 month after the date on which the charges became payable.

## 13—Recovery rights

- (1) For the purposes of section 51(1) of the Act, any charge or accrued interest will correspond to a mortgage in favour of the irrigation trust over the relevant land that ranks ahead of any mortgage, encumbrance or charge.
- (2) For the purposes of subregulation (1), the *relevant land* is the land in respect of which water is supplied or delivered, or is drained.

## 14—Service of notices or other documents

If a notice is to be served on the land to which the notice relates under section 68(1)(d) of the Act, the person acting under that section must—

- (a) seal the notice or document in a clear wrapper that is reasonably waterproof; and
- (b) fix the notice or document, as wrapped, to a conspicuous part of the land (including by fixing it to a post and then by fixing the post into the ground in a conspicuous place on the land).

## Schedule 1—Fees

### Application Fees

Application for establishment of irrigation trust	\$500
Application for amalgamation as a single irrigation trust	\$500
Application for dissolution of trust	\$500

### Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

## Made by the Governor's Deputy

with the advice and consent of the Executive Council  
on 23 April 2009

No 43 of 2009

MRMCS09/012