

SOUTH AUSTRALIA

**1978 REGULATIONS UNDER THE IRRIGATION (LAND TENURE)
ACT**

REGULATIONS UNDER THE IRRIGATION (LAND TENURE) ACT, 1930

1978 Regulations under the Irrigation (Land Tenure) Act

being

Gaz. 29 June 1978, p. 2266

as varied by

No. 13 of 1985: *Gaz.* 24 January 1985, p. 240

PART I
REPEAL, DEFINITIONS AND PARTS

1. (1) The regulations made under the *Irrigation Act, 1930-1946*, and published in the *Government Gazette* of 16th September, 1954, at page 707, are hereby repealed.

(2) In these regulations, unless the contrary intention appears "the Act" means the *Irrigation Act, 1930-1978*.

"authorised officer" means a person authorised in writing by the Minister to carry out functions on behalf of the Minister under these regulations;

"consumer" means person supplied with water by the Minister pursuant to the Act and these regulations, and for the purpose of these regulations such expression shall be deemed to include the owner, occupier, lessee, tenant, licensee of any other person who holds an interest in land to which water is supplied pursuant to the provisions of these regulations;

"Murray Mallee Region" means that part of the State that comprises the Government irrigation areas of Burdett, Cowirra, Jerovis, Long Flat, Mobilong, Monteith, Mypolonga, Neeta, Pompoota and Wall; and any other lands for which the Minister's Regional Officer in Charge has the responsibility for the provision of a water supply;

"Riverland Region" means that part of the State that comprises the Government irrigation areas of Berri, Cadell, Chaffey, Cobdogla, Kingston, Loxton, Moorook and Waikerie, and any other lands for which the Minister's Regional Officer in Charge has the responsibility for the provision of a water supply;

"service" means and includes all pipes, controls, fittings, connections and water meters installed to provide a water supply from the Minister's main pipe line to the consumer's property.

2. These regulations are divided into the following Parts—

Part I—Repeal, Definition and Parts.

Part II—Supply of Water for Irrigation.

Division I—Irrigable Lands other than Reclaimed Swamp Lands.

Division II—Reclaimed Swamp Lands.

Division III—Water Supply—(All Areas).

Division IV—General Conditions—(All Areas).

Part III—Irrigation Works.

Part IV—Advisory Boards.

Part V—Miscellaneous.

3.

**PART II
SUPPLY OF WATER FOR IRRIGATION**

DIVISION I—IRRIGATED LANDS (OTHER THAN RECLAIMED SWAMP LANDS)

3. Orders for irrigation must be lodged with an authorised officer of the Minister at a specified time before water is required by consumers.

4. (1) Each consumer after lodging an irrigation order will be given notice of the day and time water will be supplied to his block.

(2) If, after receiving such notice, any consumer fails to take water made available at the time fixed as aforesaid, his right to receive water shall be forfeited.

5. The consumer shall water continuously during the period water is supplied to his block for irrigation.

6. Each consumer shall be entitled during each irrigation only to the quantity of water approved by the Minister or an authorised officer.

7. (1) The Minister may temporarily discontinue or reduce the supply of water to consumers for the purpose of necessary investigation, inspection, maintenance, repair or replacement of any head work necessary for the delivery of water to consumers.

(2) The Minister shall notify as far in advance as possible any such discontinuance or reduction except in cases of emergency, in which case notice need not be given.

8. A consumer shall not be supplied water for irrigation purposes, if in the opinion of the Minister or an authorised officer, adequate furrows, spray irrigation equipment or other provisions have not been made or provided so as to enable land to be irrigated without waste of water and within the time limits specified by the Minister or his authorised officer.

DIVISION II—RECLAIMED SWAMP LANDS

General Irrigations

9. The Minister shall fix the general order of irrigation of blocks and the blocks shall be irrigated in the order so fixed, provided that the Minister may alter the order of irrigation where, in his opinion, circumstances warrant such alteration.

**DIVISION III—WATER SUPPLY—ALL AREAS.
METERED SUPPLIES—IRRIGATION**

Meters Supplied by the Minister

10. No person other than the Minister or an authorised officer shall provide any meter for measuring the supply of water under the Act.

4.

Changing Services or Meters

11. The Minister or an authorised officer may at any time, change, alter, remove or re-fix any service or meter.

Maintenance of Service, etc.

12. (1) If the meter is damaged or defective the consumer shall immediately give notice in writing thereof to the Minister.

(2) If any meter or any fitting is damaged other than by ordinary wear and tear, the consumer or the occupier of the property whereon the meter is situated shall pay to the Minister upon demand the cost of repairing such damage or replacing the meter or fitting.

Interference with Meters

13. (1) Any person, other than the Minister or an authorised officer, who damages, removes, repairs or in any way interferes with any meter for measuring the supply of water under the Act shall be guilty of an offence and liable upon conviction to a penalty not exceeding forty dollars.

(2) In addition to any penalty imposed pursuant to subregulation (1) of this regulation, the Minister may cause the supply of water to the property of the person who commits the offence to be cut off.

(3) The Minister may refuse to restore the supply of water until another meter has been fixed on the property or the existing meter repaired and the cost of replacing or repairing the meter and cutting off and restoring the water supply has been paid to the Minister.

Meter Rent

14. The Minister may fix an annual fee for the use of a meter, in which case the consumer on any land or premises to which a meter has been affixed by the Minister shall pay to the Minister upon demand, such annual fee as shall be fixed by the Minister from time to time for the use of such meter.

Notices of Water Supplied

15. An authorised officer shall at such times as may be determined by the Minister, give to the consumer or leave on his block a notice showing the quantity of water supplied.

Testing of Meters

16. (1) If a consumer is dissatisfied with any reading of any water meter installed by the Minister, he may apply in writing to the Minister requesting the testing of such meter, and upon receipt of such request, and the required fee for testing as fixed from time to time, the Minister shall cause the said meter to be so tested.

(2) If, upon such testing, the meter registers above five per centum more than was actually passed through the meter at such testing, the Minister shall refund the amount of the fee charged for such testing.

5.

Spray Irrigation

17. Where any land is watered by the spray irrigation method, the Minister may, for the purpose of supplying therefor water at the necessary pressure, instal electrically operated pumps. Such pumps and motors and all equipment supplied by the Minister therewith, shall remain the property of the Minister and may be inspected, serviced or removed by the Minister at any time.

18. (1) The consumer on land watered by electrically operated pumps installed by the Minister pursuant to regulation 17 shall pay to the Minister in addition to the ordinary charges for the quantity of water supplied the cost to the Minister of supplying the electric current used as recorded by a meter provided for the purpose.

(2) The Minister shall forward to the consumer a notice of the amount due by the consumer for electric power as aforesaid.

(3) The consumer shall within one month of the due date of payment shown in the notice pay to the Minister the amount set out in the notice.

(4) If payment is not made within one month as aforesaid, then interest at the rate of five per centum per annum from the date the amount falls due until date of payment thereof may be added to the amount and paid by the consumer.

Measurement of Water

19. (1) Where water is supplied by measurement and the Minister has installed a meter, the measurement shown on the meter shall be prima facie evidence of the quantity of water supplied.

(2) If, however, the meter should fail to measure or the measurement obtained from the meter should in the opinion of an authorised officer be inaccurate then the authorised officer may assess the quantity of water supplied and such assessment shall be prima facie evidence of the quantity of water used.

(3) Where water meters are not available or where the Minister, or an authorised officer considers that it is not practicable to use a water meter, the Minister may supply water through pipes or outlets not provided with means of measurement, and in such case the assessment of the authorised officer shall be prima facie evidence of the quantity of water used.

Water for Stock, Domestic and Industrial Purposes

20. The Minister may supply water for Stock and Domestic and or Industrial purposes from any irrigation channel, pipeline or drain at the discretion of an authorised officer and at a charge to be fixed by the Minister, and upon and subject to such terms and conditions as are agreed on.

DIVISION IV—GENERAL CONDITIONS—ALL AREAS

Non-Ratable Land

21. No person shall irrigate non-ratable land without the written consent of the Minister.

Control of Water

22. Every consumer shall during irrigation take due care to prevent water from being wasted.

23. No person shall, without the consent of the Minister or contrary to any conditions imposed by the Minister, permit any irrigation or drainage water from his land to run directly or indirectly into any channel, sump, shaft or drain under the control of the Minister.

24. No person shall allow water supplied to him by the Minister to run to waste on any portion of his land or to run beyond the boundaries of his land.

25. If during any irrigation on any block any person fails to comply with any of the provisions of regulations 21, 22, 23 or 24 hereof the Minister may shut off water from that block during the remainder of the time allotted for such irrigation, and no water shall be used for irrigation on that block during that time.

26. Any person from whom water has been shut off by the Minister pursuant to these regulations will not be supplied with further water until he has satisfied the Minister or an authorised officer as the case may be that these regulations will be complied with.

27. During the progress of an irrigation on any block of land no person unless authorised by the Minister or his authorised officer shall vary the quantity of water delivered to that block, or do any act or thing which directly or indirectly causes a variation of the quantity of water so delivered.

28. No person shall, without the authority of the Minister, take or use, or cause to be taken or used any water from any of the channels, drains or pipes under the control of the Minister.

**PART III
IRRIGATION WORKS**

Fencing of Channels, Drains, Etc.

29. If so required in writing by the Minister the lessee or occupier of property within an irrigation area shall protect any channel or drain or supply of water thereon by the erection and maintenance in good repair of a fence capable of preventing the ingress of horses, cattle, sheep and other similar stock.

Bridges Across Channels or Drains

30. No person shall erect any bridge, syphon or crossing, over, across or in any channel or drain in an irrigation area without first having obtained the written permission of the Minister.

31. Plans and specifications of the bridge, syphon or crossing, as the case may be shall be lodged with the application for the Minister's permission, and no person shall erect any such bridge, syphon or crossing except in accordance with the plans and specifications approved by and the conditions imposed by the Minister.

Maintenance of Private Bridges, Syphons and Crossings

32. (1) Every bridge, syphon or crossing not being the property of the Minister, over, across or in any channel or drain shall—

- (a) be kept in good repair and condition by the lessee or occupier of the land which it serves;
- (b) not interfere in any way with the flow of water in the channel or drain.

(2) If the bridge, syphon or crossing does not comply with the requirements of paragraph (1) hereof, the Minister may at the cost of the lessee or occupier cause it to be removed.

Load Limit over Bridges Constructed by the Minister

33. No person shall drive or cause to be driven or drawn onto or across any bridge, syphon or crossing, erected or constructed by or on behalf of, the Minister over, across or in, any channel to provide ingress or egress from any premises, a vehicle the gross weight of which, including the load, exceeds the permissible weight indicated by a load limit sign erected on the bridge, syphon or crossing and/or which does not comply with the requirements of sections 145 to 149 inclusive of the *Road Traffic Act, 1961-1977*. Any person who commits a breach of this regulation, or who otherwise than by reasonable use thereof damages such bridge, syphon or crossing, shall notwithstanding any other penalty which may be imposed under these regulations, pay to the Minister the cost of repairing or making good any damage caused by such breach.

Interference with Works

34. No person shall—

- (a) destroy, damage or interfere with any levee, reservoir, dam, weir, tank, channel, drain, gate, sluice, conduit, pipe, meter, bridge, culvert, box, fence or other work belonging to or under the control of the Minister;
- (b) without the authority of the Minister, open, shut, raise, or lower any sluice, gate or weir, or interfere or tamper with any of the irrigation or drainage works under the control of the Minister;
- (c) without the authority of the Minister, do any act whereby the water in any channel, drain or other irrigation or drainage work is drawn off or diminished or its flow affected.

Tree Planting near Channels and Pipes

35. No person shall within an irrigation area plant any tree or shrub in any street or road in which or adjacent to which a main channel or pipe or service pipe is laid or maintained by the Minister except within such minimum distance of such channel or pipe as the Minister may fix.

Construction of Channels or Drains

36. No person shall, without the prior written approval of the Minister so to do, excavate or construct any channel or drain across or upon any channel or drain reserve.

**PART IV
ADVISORY BOARDS**

Constitution

37. (1) There shall be, in respect of each irrigation area, an Advisory Board, which in addition to *ex officio* members, shall consist of such number of members as the Minister may decide, elected by the irrigation ratepayers in the manner determined by the Minister.

(2) The following shall be *ex officio* members:

(a) The Minister's Regional Officer in Charge or his representative who shall be Chairman.

(b) The Department of Agriculture's horticultural adviser for the district in which the irrigation area is situated.

(3) The Chairman shall have a casting vote only.

(4) The functions of the Board, which shall act in an advisory capacity only, shall be to make submissions to the authorised officer in charge of the irrigation area on any matters which the Advisory Board considers should receive the attention of the Minister, including recommendations as to the commencing dates of irrigations.

Functions of the Board

38. (1) There may be, in respect of each Region, a Regional Advisory Board, which in addition to the Chairman and any *ex officio* members, shall consist of one representative from each Advisory Board elected by the members of each Advisory Board.

(2) The Chairman of each Regional Advisory Board shall be the Minister's Regional Officer in Charge or his representative.

(3) The Chairman shall have a casting vote only and shall have the power to invite any other person to be present at the meeting as a non-voting *ex officio* advisory member of the Board.

(4) The functions of a Regional Advisory Board shall be to bring to the notice of the Minister, through the Chairman, any matters relating to or affecting irrigation or drainage services in the region.

**PART V
MISCELLANEOUS**

Erections on Premises under Control of Minister

39. No person shall erect any structure upon any lands under the control of the Minister except with the prior consent in writing of the Minister and subject to such terms and conditions as the Minister may impose.

Affixing Placards, Etc.

40. No person shall without the prior written consent of the Minister affix or cause or permit to be affixed any placard, notice, bill, advertisement or paper on or otherwise deface any tree, post, bridge, fence, building or other property situated upon any lands under the control of the Minister.

Insanitary Conditions

41. No person shall throw, convey, or place or cause or permit to be thrown, conveyed or placed any rubbish, dirt, waste, filth, manure or any noisome thing into any irrigation work under the control of the Minister or wash or cleanse therein any clothes, cloth, or other article or thing whatsoever.

42. No owner or other person having the control of any animal or bird shall cause or permit the same to enter any channel, drain, tank or reservoir under the control of the Minister.

43. No person shall bathe in any channel, drain, tank or reservoir under the control of the Minister.

44. No lessee or occupier of any land under the control of the Minister shall without the consent in writing of the Minister allow any waste water from his land, or water contaminated or charged with sediment or debris, to enter any irrigation work under the control of the Minister.

45. No person shall cause or permit the water from any sink, sewer or drain or other filthy water under his control, to enter any irrigation work under the control of the Minister, or do any act whereby any water in such work shall be fouled or contaminated.

Trespass of Stock

46. No owner of or person having the control of any horses, cattle, sheep or goats shall without the written consent of the Minister or an authorised officer allow them to depasture, stray or be upon any embankment, channel reserve or other land or works under the control of the Minister.

Trespassing on Channel Reserves

47. No person shall without the written consent of the Minister or an authorised officer enter or remain in or upon any channel reserve within any land under the control of the Minister.

Failure to Comply with Notice

48. If the Minister pursuant to these regulations gives any person notice to perform any work, effect any repair or do any act or thing and such person fails within the time and manner specified in the notice to comply with the notice, the Minister may perform such work effect such repair or do such act or thing and the cost thereof shall be a debt due to the Minister by the person to whom the notice was given and may be recovered by the Minister in any court of competent jurisdiction.

Service of Notice

49. Any notice given by the Minister or an authorised officer pursuant to these regulations may be given to any owner, lessee, occupier or consumer, in respect of any property under the control of the Minister or to any other person:—

- (a) by sending the same by post in a prepaid letter addressed to the owner, lessee or occupier or other person at his usual or last known place of residence or business or, if the owner, lessee, occupier or other person aforesaid is a company or body corporate, by sending the same by post in a prepaid letter addressed to the company or body corporate at its place of business the address of its registered office; or
- (b) by giving the same to the owner, lessee, occupier, consumer, or other person or, if the owner, lessee, occupier, consumer or other person aforesaid is a body corporate, by giving the same to the manager or secretary thereof; or
- (c) by leaving the same at the place of residence of the owner, lessee, occupier, consumer or other person or with some person there apparently above the age of fourteen years; or
- (d) in the case of property which is unoccupied and the owner or lessee of which whose whereabouts is or are unknown, by putting the same upon some conspicuous part of the property. If the owner or lessee is unknown it shall not be necessary in the notice to name the owner of the property.

Penalties for Offences

50. Except where a specific penalty is provided in any of these regulations, any person offending against, committing a breach of, or failing to comply with any of these regulations shall be liable on summary conviction to a penalty not exceeding forty dollars and in the case of a continuing offence to an additional penalty of four dollars for each day of such continuance.

13.

APPENDIX

LEGISLATIVE HISTORY

Regulations 1(2): definition of "Murray Mallee Region" inserted by 13, 1985,
reg. 2

Regulation 37: definition of "Riverland Region" inserted by 13, 1985, reg. 2
substituted by 13, 1985, reg. 3