



ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

No. 152 of 1972

An Act to amend the South-Eastern Drainage Act, 1931-1971.

[Assented to 7th December, 1972]

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

1. (1) This Act may be cited as the "South-Eastern Drainage Act Amendment Act, 1972". Short titles.

(2) The South-Eastern Drainage Act, 1931-1971, as amended by this Act, may be cited as the "South-Eastern Drainage Act, 1931-1972".

(3) The South-Eastern Drainage Act, 1931-1971, is hereinafter referred to as "the principal Act".

2. This Act shall be deemed to have come into operation on the first day of June, 1972. Commencement.

3. Section 6 of the principal Act is amended by inserting after the definition of "private drainage work" the following definition:— Amendment of principal Act, s. 6—
Definitions.

"proportionate rebate" in relation to drainage rates means a proportionate rebate determined under section 53 of this Act:.

Repeal of
s. 49 of
principal Act
and enactment
of section
in its place—
Liability to
drainage rates.

4. Section 49 of the principal Act is repealed and the following section is enacted and inserted in its place:—

49. (1) Drainage rates shall be payable upon all ratable land in the South-East.

(2) In this section—

“ratable land” means all land—

(a) that has, in the opinion of the Board, been benefited by the construction of drains and drainage works;

and

(b) that is delineated on a plan prepared by, or under the direction of, the Board and deposited in the Central Plan Office of the Department of Lands,

but does not include land declared by the appeal board not to be ratable land for the purposes of this Act if the declaration is for the time being in force.

(3) The Board may from time to time alter and revise the plan referred to in subsection (2) of this section.

(4) The amount of the drainage rates to be paid upon any ratable land by a landholder for any financial year shall be—

(a) an amount calculated on the basis of the unimproved value of that ratable land as determined under the Valuation of Land Act, 1971-1972, in determinations of unimproved value in force at the commencement of the financial year;

less

(b) the amount of the proportionate rebate (if any) of drainage rates applicable to that ratable land.

(5) A determination of unimproved value shall be deemed to be in force at the time referred to in subsection (4) of this section if it is in force as at that time under the Valuation of Land Act, 1971-1972, whether the determination is actually made before or after that time.

(6) Where a determination of unimproved value in force at the time referred to in subsection (4) of this section is subsequently corrected or amended pursuant to the provisions of the Valuation of Land Act, 1971-1972, (whether in pursuance

of an objection or appeal under that Act or otherwise), the determination of value, as corrected or amended, shall be deemed to have been in force at the time referred to in subsection (4) of this section.

(7) The right of the Board to recover drainage rates under this Act shall not be suspended or delayed by any objection to or appeal against, a determination of value under the Valuation of Land Act, 1971-1972, and the Board may recover drainage rates on the assumption that the determination of value is correct but if any alteration to a determination of value affecting the amount of the drainage rates payable in respect of any land is made under the Valuation of Land Act, 1971-1972, (whether in consequence of an objection or appeal, or otherwise) the Board shall refund to the landholder any excess amount recovered as drainage rates, or may recover any additional amount, recoverable on the basis of an altered determination of value, as arrears.

(8) The Valuer-General shall, at the request of the Board, determine in accordance with the Valuation of Land Act, 1971-1972, the unimproved value of any land in respect of which such a determination is required for the purpose of levying drainage rates under this Act.

5. Section 53 of the principal Act is amended—

Amendment of
principal Act,
s. 53—
Appeal.

(a) by striking out paragraphs (a) and (b) of subsection (2) and inserting in lieu thereof the following paragraphs:—

(a) that the appellant is not the landholder in respect of the landholding, or is the landholder in respect of only part of that landholding;

or

(b) that the landholding, or any of the land comprised therein, has received no direct or indirect benefit from the construction of the drains or drainage works.;

(b) by striking out subsection (5) and inserting in lieu thereof the following subsections:—

(5) Upon the hearing of an appeal, the appeal board may—

(a) if satisfied that the appellant is not the landholder in respect of the landholding, or any part thereof, make a declaration of that fact;

(b) if satisfied that none of the land comprised in the landholding, or in a separate part of the landholding, has received any direct or indirect benefit from the construction of the drains or drainage works, declare that the land comprised in the landholding, or that part of the landholding, is not ratable land for the purposes of this Act;

or

(c) if satisfied that a part of the land comprised in the landholding has received no direct or indirect benefit from the construction of the drains or drainage works, and that that part of the landholding does not constitute a separate part of the landholding, make a determination describing or delineating, with sufficient particularity to enable it to be identified, the land that has received no direct or indirect benefit from the construction of the drains or drainage works.

(5a) Where the appeal board has made a determination under paragraph (c) of subsection (5) of this section, the South-Eastern Drainage Board shall cause the Valuer-General to make an assessment of the unimproved value of the land, identified in the determination of the appeal board as having received no direct or indirect benefit from the construction of the drains and drainage works, and the unimproved value of the whole of the ratable land comprised in the landholding.

(5b) Where a determination has been made under paragraph (c) of subsection (5) of this section in respect of any ratable land, there shall, subject to this section, be a proportionate rebate of the drainage rates payable upon that ratable land for the financial year commencing on the first day of July, 1972, and each subsequent financial year.

(5c) The proportionate rebate shall be the proportion of the drainage rates that would, but for the determination of the appeal board, be payable upon the ratable land that the unimproved value of the part of the ratable land that has, in the opinion of the appeal board, received no direct or indirect benefit from the

construction of the drains or drainage rates bears to the unimproved value of the whole of the ratable land.

(5d) The unimproved values upon which the proportionate rebate is based shall be those determined by the Valuer-General under subsection (5a) of this section and the proportionate rebate shall be unaffected by any subsequent change in unimproved values.

(5e) Where ratable land to which a proportionate rebate applies is divided into separate portions subject to separate tenure, the South-Eastern Drainage Board shall determine the proportionate rebate (if any) applicable to each portion of the ratable land, and that determination shall not be subject to appeal.

(5f) Where a declaration or determination has been made by the appeal board under this section and it is, in the opinion of the South-Eastern Drainage Board, just that the declaration or determination be varied or revoked by reason of the construction of drains or drainage works after the date of the declaration or determination, the South-Eastern Drainage Board may by notice in writing served personally or by post on the landholder, revoke or vary the declaration or determination.

(5g) The landholder may appeal to the appeal board against the revocation or variation of a declaration or determination under subsection (5f) of this section, and the appeal board may, upon the hearing of any such appeal, vary or revoke the determination of the South-Eastern Drainage Board.;

and

(c) by inserting after subsection (7) the following subsection:—

(8) In this section—

“landholding” means the whole of the land referred to in a notice served under section 50 of this Act:

“separate part” of a landholding means—

(a) a part of the landholding that is not contiguous with any other part of the landholding;

or

(b) a part of the landholding that is described as a section, part section or block in a certificate of title, agreement or lease under which the land is held.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

M. L. OLIPHANT, Governor