

South Australia



**SOUTH EASTERN WATER CONSERVATION AND DRAINAGE
(MISCELLANEOUS) AMENDMENT ACT 1995**

No. 104 of 1995

SUMMARY OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of s. 3—Interpretation
4. Amendment of s. 11—Entitlement to vote at Board elections
5. Amendment of s. 13—Term of office of Board members
6. Amendment of s. 16—Conflict of interest
7. Insertion of s. 34A
34A. Contribution by landholders to cost of Board works
8. Amendment of s. 41—Water management works not to be constructed, altered or removed without a licence
9. Amendment of s. 42—Certain bridges and culverts not to be constructed without a licence
10. Amendment of s. 43—Grant of licences
11. Amendment of s. 45—Water not to be taken from Board or Council water management works
12. Amendment of s. 46—Board and Council water management works not to be interfered with
13. Amendment of s. 47—Permission may be conditional
14. Amendment of s. 48—Rights of appeal
15. Amendment of s. 49—Decision or requirement may be suspended pending appeal
16. Amendment of s. 52—Powers of authorised officers
17. Amendment of s. 53—Hindering, etc., persons engaged in the administration of this Act
18. Amendment of s. 54—Proceedings for offences
19. Amendment of s. 59—Regulations



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ELIZABETHAE II REGINAE

A.D. 1995

No. 104 of 1995

An Act to amend the South Eastern Water Conservation and Drainage Act 1992.

[Assented to 14 December 1995]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *South Eastern Water Conservation and Drainage (Miscellaneous) Amendment Act 1995*.

(2) The *South Eastern Water Conservation and Drainage Act 1992* is referred to in this Act as "the principal Act".

Commencement

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

Amendment of s. 3—Interpretation

3. Section 3 of the principal Act is amended by striking out "30" from the definition of "eligible landholder" and substituting "10".

Amendment of s. 11—Entitlement to vote at Board elections

4. Section 11 of the principal Act is amended—

(a) by striking out from subsection (2)(a), (b) and (c) "30" wherever it occurs and substituting, in each case, "10";

(b) by striking out subsection (8) and substituting the following subsections:

(8) The following persons are entitled to vote at an election for an electoral zone:

(a) a natural person whose name appears on the electoral roll as an elector for the zone; and

- (b) in the case of a group of natural persons that is on the electoral roll as an elector for the zone but in respect of which no nomination under subsection (3) is in force—the member of the group whose name is listed first on the electoral roll,

(the electoral roll referred to in this subsection being the electoral roll as in force on the day on which nominations for the election open).

(8a) A person who is entitled to vote at an election as a member of a group pursuant to subsection (8)(b) will, for the purposes of subsections (9) and (10), be taken to be the nominated agent for that group.

Amendment of s. 13—Term of office of Board members

5. Section 13 of the principal Act is amended—

(a) by striking out subsection (1) and substituting the following subsections:

(1) An appointed member of the Board will be appointed for a term not exceeding 4 years.

(1a) An elected member of the Board will be elected for a term of 4 years.

(1b) A member of the Board is, on the expiration of a term of office, eligible for reappointment or re-election (unless he or she no longer satisfies the eligibility requirements for appointment or election to the Board).;

(b) by striking out subsection (4).

Amendment of s. 16—Conflict of interest

6. Section 16 of the principal Act is amended—

(a) by striking out the penalty provision from subsection (1) and substituting the following penalty provision:

Maximum penalty: \$5 000 or imprisonment for 1 year.;

(b) by striking out the penalty provision from subsection (5) and substituting the following penalty provision:

Maximum penalty: \$5 000 or imprisonment for 1 year.

Insertion of s. 34A

7. The following section is inserted in the principal Act after section 34:

Contribution by landholders to cost of Board works

34A. (1) The Board may, in respect of a financial year, levy a contribution from landholders of private land in the South East.

(2) Contributions may, in respect of any particular financial year, be levied from all landholders who own or occupy more than 10 hectares of private land in the South East or from all landholders who own or occupy more than 10 hectares of private land within an area of the South East designated by the Minister by notice in the *Gazette*.

**South Eastern Water Conservation and Drainage
(Miscellaneous) Amendment Act 1995**

No. 104 of 1995

(3) Contributions will not, however, be levied in respect of private land that—

- (a) is subject to a heritage agreement under the *Native Vegetation Act 1991*; or
- (b) is exempted by the Minister, by notice in the *Gazette*, from the operation of this section.

(4) The money received by the Board under this section will (after deduction of administrative costs relating to collection of contributions) be applied towards the cost to the Board of constructing, altering, removing or maintaining any water management works.

(5) The contributions payable will be calculated by the Board at the rate, or rates, fixed by the Minister from time to time by notice in the *Gazette*.

(6) The rate of contribution may vary according to factors specified by the Minister in the notice.

(7) The Minister may, by notice in the *Gazette*, vary or revoke a notice under this section.

(8) The Minister must consult with the Board before fixing or varying a rate of contribution.

(9) A contribution in respect of a particular financial year is payable by a landholder within the time (which must be at least 2 months) and in the manner specified by the Board by notice in writing given personally or by post to the landholder.

(10) An amount due and payable under a notice under subsection (9)—

- (a) is recoverable by the Board as a debt; and
- (b) is a charge over the land to which the contribution relates ranking in priority before all other charges and mortgages (other than a charge or mortgage in favour of the Crown or a Crown instrumentality).

(11) In this section—

"private land" means land that is not—

- (a) unalienated land of the Crown; or
- (b) vested in or under the care, control or management of an agency or instrumentality of the Crown; or
- (c) vested in or under the care, control or management of a council.

Amendment of s. 41—Water management works not to be constructed, altered or removed without a licence

8. Section 41 of the principal Act is amended by striking out the penalty provision and substituting the following penalty provision:

Maximum penalty: \$10 000.

Amendment of s. 42—Certain bridges and culverts not to be constructed without a licence

9. Section 42 of the principal Act is amended by striking out the penalty provision and substituting the following penalty provision:

Maximum penalty: \$10 000.

Amendment of s. 43—Grant of licences

10. Section 43 of the principal Act is amended by striking out the penalty provision from subsection (5) and substituting the following penalty provision:

Maximum penalty: \$10 000.

Amendment of s. 45—Water not to be taken from Board or Council water management works

11. Section 45 of the principal Act is amended by striking out the penalty provision and substituting the following penalty provision:

Maximum penalty: \$10 000.

Amendment of s. 46—Board and Council water management works not to be interfered with

12. Section 46 of the principal Act is amended by striking out the penalty provision and substituting the following penalty provision:

Maximum penalty: \$10 000.

Amendment of s. 47—Permission may be conditional

13. Section 47 of the principal Act is amended by striking out the penalty provision from subsection (2) and substituting the following penalty provision:

Maximum penalty: \$10 000.

Amendment of s. 48—Rights of appeal

14. Section 48 of the principal Act is amended—

(a) by striking out from subsection (1) "Water Resources Appeal Tribunal" and substituting "Environment, Resources and Development Court";

(b) by striking out from subsections (2) and (3) "Tribunal" wherever it occurs and substituting, in each case, "Court".

Amendment of s. 49—Decision or requirement may be suspended pending appeal

15. Section 49 of the principal Act is amended—

(a) by striking out from subsection (1) "Tribunal" (first occurring) and substituting "Environment, Resources and Development Court";

(b) by striking out from subsections (1) and (2) "Tribunal" wherever else it occurs and substituting, in each case, "Court".

Amendment of s. 52—Powers of authorised officers

16. Section 52 of the principal Act is amended by striking out the penalty provision from subsection (7) and substituting the following penalty provision:

Maximum penalty: \$5 000.

Amendment of s. 53—Hindering, etc., persons engaged in the administration of this Act

17. Section 53 of the principal Act is amended by striking out the penalty provision from subsection (1) and substituting the following penalty provision:

Maximum penalty: \$5 000.

Amendment of s. 54—Proceedings for offences

18. Section 54 of the principal Act is amended by striking out subsection (1).

Amendment of s. 59—Regulations

19. Section 59 of the principal Act is amended by striking out from subsection (2)(d) "a division 8 fine" and substituting "\$1 250".

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

ROMA MITCHELL Governor