



ANNO TRICESIMO

ELIZABETHAE II REGINAE

A.D. 1982

No. 2 of 1982**An Act to amend the Irrigation Act, 1930-1981.***[Assented to 7 January 1982]*

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

- Short titles.** 1. (1) This Act may be cited as the "Irrigation Act Amendment Act 1982".
- (2) The Irrigation Act, 1930-1981, is in this Act referred to as "the principal Act".
- (3) The principal Act, as amended by this Act, may be cited as the "Irrigation Act, 1930-1982".
- Commence-
ment.** 2. This Act shall come into operation on a day to be fixed by proclamation.
- Amendment of
s. 4—
Arrangement
of Act.** 3. Section 4 of the principal Act is amended by striking out the item:
PART VI—Lessees of Reclaimed Lands Loan Fund
and substituting the item:
PART VI—Financial assistance to holders of land in irrigation areas;
- Amendment of
s. 6—
Interpretation.** 4. Section 6 of the principal Act is amended by inserting after the definition of "Minister" the following definition:
"owner", in relation to land within an irrigation area, means a person who owns, or who is purchasing from the Crown under an agreement to purchase, the fee simple of the land.
- Repeal of
s. 35.** 5. Section 35 of the principal Act is repealed.
- Insertion of
new s. 41a.** 6. The following section is inserted after section 41 of the principal Act:
- 41a. (1) The Governor may, in the name and on behalf of the Crown, grant an easement to any person over or in relation to any of the following lands that lie within an irrigation area:
- Grant of
easements
by the Crown.**

- (a) Crown lands or reserved or dedicated lands;
 - (b) land held under licence from the Crown;
- or
- (c) that part of the lands comprised in a lease or agreement to purchase (being a lease or agreement from the Crown under this Act, or any other Act dealing with the disposal of lands of the Crown) in relation to which the lessee or purchaser has surrendered or transferred, or purported to surrender or transfer, to the Crown or a Minister of the Crown certain rights for the purpose of enabling the Crown or an instrumentality of the Crown to carry out any works.

(2) An easement may be granted in such terms and for such purposes as the Minister thinks fit.

(3) The grant of an easement under this section shall be in a form determined by the Minister.

7. The following sections are inserted after section 48b of the principal Act:

Insertion of new ss. 48c, 48d and 48e.

48c. (1) In this section, "lease" or "licence" means a lease or licence over lands within an irrigation area, being a lease or licence from the Crown under this Act, or any other Act dealing with the disposal of lands of the Crown.

Fee simple of lease or licence may be purchased.

(2) A lessee or licensee may apply in writing to the Minister to surrender his interest in the lands, or any part of the lands, comprised in his lease or licence and to purchase, at a price to be determined by the Minister, the fee simple of the lands to which the surrender relates.

(3) The Minister may, upon such terms and conditions as he thinks fit, grant an application made under subsection (2), and shall give the applicant written notice of his decision.

(4) Without limiting the generality of subsection (3), the terms or conditions upon which an application may be granted may include a term or condition—

- (a) that gives the applicant the option of purchasing the fee simple of the lands by immediate payment of cash, or by an agreement to purchase;
 - (b) that requires the applicant to purchase the fee simple of the lands by immediate payment of cash;
- or
- (c) that requires the land grant issued to the applicant, whether upon payment of cash or upon completion of an agreement to purchase, to be subject to conditions or reservations.

(5) A notice given under subsection (3) to a successful applicant must state—

- (a) the purchase price determined by the Minister;
- (b) the terms and conditions upon which the application is granted;

(c) if the applicant is given the option of entering into an agreement to purchase, the terms, conditions, covenants or reservations of the proposed agreement;

and

(d) the particulars of any conditions or reservations to which the land grant to be issued to the applicant will be subject.

(6) A condition attached to a land grant pursuant to this section may be of indeterminate duration or for such period of time as the Minister determines.

(7) The Minister may revoke, or waive compliance with, a condition to which a land grant or certificate of title is subject.

(8) Where a land grant is subject to conditions or reservations, any certificate of title subsequently issued for any of the lands comprised in the land grant shall, if issued during the continuance of the conditions or reservations, be endorsed with those conditions or reservations.

48d. The provisions of the Crown Lands Act, 1929-1980, apply, *mutatis mutandis*, to and in relation to—

(a) a breach of an agreement to purchase entered into under this Act, as if it were breach of an agreement entered into under that Act;

and

(b) a breach of a condition to which a land grant or certificate of title is subject pursuant to this Act, as if it were breach of a condition to which a land grant or certificate of title is subject pursuant to Division I of Part XIII of that Act.

48e. (1) Notwithstanding any provision to the contrary in this Act or any other Act, or in a perpetual lease, agreement to purchase or land grant, the consent of the Minister is not required to the transfer, assignment, subletting, encumbering or mortgaging of a perpetual lease or agreement to purchase, or of the lands comprised in a land grant, except where the Minister holds a mortgage over the lease, agreement or land grant.

(2) This section applies—

(a) to a perpetual lease of, or an agreement to purchase, any lands within an irrigation area, being a lease or agreement from the Crown under this Act or any other Act dealing with the disposal of lands of the Crown;

and

(b) to a land grant issued in respect of a town allotment under this Act.

Application of Crown Lands Act to breach of Agreement or condition.

Consent of Minister not required to transfer, etc., of perpetual lease, agreement or land grant.

Amendment of s. 58—
Power of Minister to require channels to be concreted.

8. Section 58 of the principal Act is amended by inserting in subsections (1), (2) and (3) after the word "lessee", wherever it occurs, the passage "or owner".

Amendment of s. 59—
Power of Minister to require lessees or owners to prevent seepage or drainage.

9. Section 59 of the principal Act is amended by inserting in subsections (1), (2) and (3) after the word "lessee", wherever it occurs, the passage "or owner".

10. Section 67 of the principal Act is amended—

(a) by striking out from subsection (1) the word “lessee” and substituting the passage “owner or lessee of land in an irrigation area”;

(b) by striking out from subsection (1) the passage “comprised in his lease”;

and

(c) by inserting in subsection (2) after the word “lessee”, wherever it occurs, the passage “or owner”.

Amendment of s. 67—
Duty of lessee or owner to repair drains.

11. Section 73 of the principal Act is amended by inserting in paragraph (a) after the word “lessees” the passage “or owners”.

Amendment of s. 73—
Power of Minister to supply water.

12. Section 80e of the principal Act is amended—

(a) by inserting in subsection (1) after the word “lessees” the passage “or owners”;

and

(b) by inserting in subsection (2) after the word “lessee”, wherever it occurs, the passage “or owner”.

Amendment of s. 80e—
Settlers to drain blocks.

13. Section 80f of the principal Act is amended—

(a) by inserting in subsection (1) after the word “lessees”, wherever it occurs, the passage “or owners”;

(b) by inserting in subsection (1) after the word “lessee”, wherever it occurs, the passage “or owner”;

and

(c) by inserting in subsection (3) after the word “lessee”, wherever it occurs, the passage “or owner”.

Amendment of s. 80f—
Payment of cost of outlet.

14. Section 80g of the principal Act is amended by inserting in subsection (1) after the word “lessees” the passage “or owners”.

Amendment of s. 80g—
Drainage charge before constitution of drainage area.

15. Section 80i of the principal Act is amended by inserting in subsection (5) after the word “lessee” the passage “or owner”.

Amendment of s. 80i—
Drainage.

16. Section 80j of the principal Act is amended by inserting in subsection (4) after the word “lessees” the passage “or owners”.

Amendment of s. 80j—
Provision for recovery of charges and drainage rates.

17. Section 80k of the principal Act is amended—

(a) by striking out from subsection (1) the word “leases” first occurring and substituting the passage “separate holdings”;

(b) by striking out from paragraph I of subsection (1) the passage “was comprised in the block and”;

Amendment of s. 80k—
Apportionment of liability on transfer of portion of blocks.

(c) by striking out from paragraph II of subsection (1) the passage “was comprised in the block and which”;

(d) by striking out from paragraph II of subsection (1) the passage “lessees under the leases aforesaid and the land of those lessees” and substituting the passage “lessees or owners of those holdings on the basis of the area of the lands comprised in the holdings”;

and

(e) by striking out from paragraph III of subsection (1) the passage “lessees under the leases aforesaid and the land of those lessees” and substituting the passage “lessees or owners of those holdings on the basis of the area of the lands comprised in the holdings”.

Amendment of
s. 80—
Payment of
drainage
charges and
rates by
certain
occupiers.

18. Section 80 l of the principal Act is amended—

(a) by inserting after the passage “is not comprised in a lease” the passage “(or any other form of tenure granted under this Act pursuant to the surrender of a lease or licence)”;

and

(b) by inserting after the word “lessee”, wherever it occurs, the passage “or owner”.

Amendment of
heading to
Part VI.

19. The heading to Part VI of the principal Act is amended by striking out the word “LESSEES” and substituting the passage “HOLDERS OF LAND IN IRRIGATION AREAS”.

Amendment of
s. 81—
Financial
assistance
to landholders
in irrigation
areas.

20. Section 81 of the principal Act is amended—

(a) by inserting in subsection (1) after the word “lessee” first occurring the passage “or owner of any land within an irrigation area”;

(b) by striking out from paragraph (a) of subsection (1) the passage “land leased under this Act by the lessee” and substituting the passage “the land”;

and

(c) by inserting in paragraph (c) of subsection (1) after the word “lessee” the passage “or owner”.

Amendment of
s. 113a—
Interpretation.

21. Section 113a of the principal Act is amended by inserting after the word “lessee” in paragraph (a) of the definition of “landholder” the passage “or owner”.

Amendment of
s. 118a—
Use of
party channels
and drains.

22. Section 118a of the principal Act is amended by inserting in subsections (1) and (2) after the word “lessee”, wherever it occurs, the passage “or owner”.

Amendment of
s. 121a—
Power of
Minister
to carry out
work on
behalf of
lessee or
owner.

23. Section 121a of the principal Act is amended by inserting in subsections (1) and (2) after the word “lessee”, wherever it occurs, the passage “or owner”.

24. The second schedule to the principal Act is amended—

(a) by striking out paragraph I appearing after the passage “And the lessee must not—”;

and

(b) by striking out paragraph III of clause 4.

Amendment of
second
schedule.

25. The third schedule to the principal Act is amended—

(a) by striking out paragraph X of clause 3;

and

(b) by striking out paragraph V of clause 5.

Amendment of
third
schedule.

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

K. D. SEAMAN, Governor