

1970 Bill 121

Third Session, 16th Legislature, 19 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 121

An Act to amend The Irrigation Act, 1968

THE MINISTER OF AGRICULTURE

First Reading

Second Reading

Third Reading

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1970

An Act to amend The Irrigation Act, 1968

(Assented to , 1970)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. *The Irrigation Act, 1968* is hereby amended.

2. Section 2, subsection (1) is amended

(a) by adding after clause 6 the following clause:

6a. "district with outer boundaries" means an irrigation district other than one consisting of the aggregate of the parcels on its assessment roll;

(b) by striking out clause 19 and by substituting the following:

19. "parcel" or "parcel of land" means land

(i) included in a district or, in the case of a district with outer boundaries, shown on the assessment roll of that district as having a number of acres classified as "to be irrigated",

(ii) having the same owner, and

(iii) consisting of a quarter-section, a part of a quarter-section described in a certificate of title, a surveyed lot or lands designated as an irrigable unit pursuant to section 57, subsection (2);

3. Sections 10, 11 and 12 are struck out and the following sections are substituted:

10. (1) Where a petition is made to the Council under this Part, the petition shall be accompanied by proof that the petitioners have, at least 21 days prior to the date the petition is submitted to the Council, published in a newspaper of general circulation in the district a notice in the prescribed form

Explanatory Notes

1. This Bill amends chapter 49 of the Statutes of Alberta, 1968.

2. Section 2, subsection (1), clause 19 presently reads:

19. "parcel" or "parcel of land" means land included in a district and having the same owner and consisting of
- (i) a quarter-section, a part of a quarter-section described in a certificate of title or a surveyed lot, or
 - (ii) lands designated as an irrigable unit by a board pursuant to subsection (2) of section 57;

See notes to clauses 3 and 10 of this Bill.

3. Orders pertaining to the formation, dissolution or amalgamation of districts or changes in districts will be made by the Irrigation Council instead of the Local Authorities Board. However, opponents of the petition will be able to demand that the petition be heard by the Local Authorities Board or the district court. Similarly, the petitioners may request that the Local Authorities Board or the district court hear the petition. The Board or the Court will in that case direct the Council as to what order should be made.

Sections 10, 11 and 12 presently read:

10. On receipt of a petition the Council may
- (a) forthwith refer it to the Local Authorities Board, or
 - (b) refer it back to the petitioners for further evidence or particulars or with a request that it be amended in such manner as the Council may suggest and be resubmitted to the Council with the further evidence or particulars requested, or as amended, or
 - (c) reject the petition.
11. (1) On receipt of a petition which has been referred back to them by the Council pursuant to clause (b) of section 10, the petitioners may
- (a) resubmit the petition after complying in whole or in part with the request of the Council, or
 - (b) resubmit the petition without complying with the request,
- and in either case the Council shall forthwith refer the petition to the Local Authorities Board.
- (2) Where the petitioners fail to resubmit the petition under subsection (1) within one year of the date on which it was referred back to them by the Council, the petition shall be deemed to be withdrawn.
12. (1) After hearing the petition, the Local Authorities Board shall grant or reject the petition and shall, subject to this Part, make such order as in the circumstances it considers just and proper.
- (2) An order granting a petition may provide for
- (a) the payment or giving of security by the petitioners or any of them, or by any other person affected, of such amounts as the order prescribes, to the board of a district or to such other person or persons named in the order, for the purpose of equalizing the benefits received by and the burden imposed on all parcels included in or to be included in or excluded from a district, or affected by the order,
 - (b) the division or apportionment of any rights, property, obligations or liabilities affected as it may consider proper, and
 - (c) any other matters incidental or pertinent to the granting of the petition.

- (a) setting out the text of the petition,
 - (b) stating that any persons wishing to object to the petition are required to submit a written objection to the Council within 21 days after the date of publication of the notice, and
 - (c) stating that any person filing a notice of objection may also request that the petition be heard by the district court instead of the Local Authorities Board.
- (2) On receipt of a petition the Council may
- (a) if no objections are received within the 21-day period referred to in subsection (1), approve the petition and make an order accordingly, or
 - (b) refer the petition back to the petitioners for further evidence or particulars or with a request that it be amended in such manner as the Council may suggest and be resubmitted to the Council with the further evidence or particulars requested, or as amended, or
 - (c) reject the petition, if it is satisfied that the requirements of section 9 or subsection (1) of this section have not been complied with, or
 - (d) subject to section 12, direct that a hearing be held before the Council with respect to the petition.
- (3) On receipt of a petition which has been referred back to them by the Council pursuant to subsection (2), clause (b), the petitioners may
- (a) resubmit the petition after complying in whole or in part with the request of the Council, or
 - (b) resubmit the petition without complying with the request,
- and in so doing shall comply with any directions of the Council for giving notice of the resubmission of the petition.
- (4) Where the petitioners fail to resubmit a petition within one year of the date on which it was referred back to them by the Council, the petition shall be deemed to be withdrawn.

11. Subject to section 12, where, pursuant to section 10, subsection (2), clause (d), the Council directs that a hearing be held with respect to the petition, the Council shall

- (a) set a date for the hearing,
- (b) notify the petitioners and the board of the hearing at least 10 days prior to that date,
- (c) hear and consider the petition at the hearing or any adjournment thereof, and
- (d) make its decision and issue an order accordingly.

12. (1) Where a notice of objection is submitted to the Council within the 21-day period referred to in section 10, subsection (1), clause (b), the Council shall refer the petition

- (a) to the Local Authorities Board, or
- (b) to the district court, where the notice of objection also requests that the petition be heard by the district court.

(2) Where the petitioners expressly request that a hearing be held with respect to the petition, the Council shall refer the petition

- (a) to the Local Authorities Board, or
- (b) to the district court, if the petition so specifies or if a notice of objection submitted to the Council requests that the petition be heard by the district court.

(3) Where the Council refers a petition to the Local Authorities Board or the district court, the Board or the court, as the case may be,

- (a) shall hold a hearing with respect to the petition upon such notice to the petitioners, the board and the objectors as it may direct,
- (b) shall make an order rejecting the petition or directing the Council to grant the petition, and
- (c) where it directs the Council to grant the petition, shall specify the terms of the order to be made by the Council.

(4) An order made by the Council granting a petition, whether made pursuant to section 11 or upon the direction of the Local Authorities Board or the district court under this section, may provide for

- (a) the payment or giving of security by the petitioners or any of them, or by any other person affected, of such amounts as the order prescribes, to the board of a district or to such other person or persons named in the order, for the purpose of equalizing the benefits received by and the burden imposed on all parcels included in or to be included in or excluded from a district, or affected by the order,
- (b) the division or apportionment of any rights, property, obligations or liabilities affected as it may consider proper, and
- (c) any other matters incidental or pertinent to the granting of the petition.

4. Section 13 is amended

- (a) by striking out the portion of the section preceding clause (a) and by substituting the following:

4. Section 13, clause (a), subclause (iii) presently reads:

**13. Where the Local Authorities Board grants a petition, its order
(a) in the case of the formation of a new district, shall set out**
.....

(iii) a description of the parcels included in the district,

13. Where the Council makes an order granting a petition, whether pursuant to section 11 or upon the direction of the Local Authorities Board or the district court under section 12, the order

(b) as to clause (a) by striking out subclause (iii) and by substituting the following:

(iii) a description of the parcels constituting the district, or, in the case of a district with outer boundaries, a description of the lands constituting the district,

5. Section 15 is amended by striking out the words "Local Authorities Board" wherever they occur and by substituting the word "Council".

6. Section 16 is amended

(a) by striking out the words "Local Authorities Board" and by substituting the word "Council",

(b) by striking out the words "that Board" and by substituting the words "the Council".

7. Section 17, subsection (1) is amended

(a) by striking out the words "Local Authorities Board" and by substituting the word "Council",

(b) by striking out the words "that Board" and by substituting the words "the Council".

8. Section 18 is amended by striking out the words "Local Authorities Board" and by substituting the word "Council".

9. Section 19, subsection (1) is amended

(a) by striking out the words "Local Authorities Board" in the first line and by substituting the word "Council",

(b) by striking out the words "the Local Authorities Board may, at the request of the Council," and by substituting the words "the Council may".

5. Section 15 contains references to orders of the Local Authorities Board which will instead be made by the Irrigation Council.

6. Idem.

7. Idem.

8. Section 18 presently reads:

18. Upon the making by the Local Authorities Board of an order under section 19 or 20 or an order for the formation of a district, the alteration of the area of a district, the dissolution of a district or the amalgamation of districts the Council shall

(a) cause a certified copy of the order to be registered in the proper land titles office for the purpose of having noted upon each certificate of title to a parcel shown in the order that the parcel forms part of the district or for the purpose of having the note removed, as the case may be, pursuant to section 23 of The Land Titles Act, and

(b) cause the order to be published in the Gazette.

See note to clause 10 of this Bill.

9. Section 19, subsection (1), presently reads:

19. (1) Where the Local Authorities Board makes an order for the formation of a new district or makes an order constituting a district under section 20, and later makes one or more orders changing the area of the district, the Local Authorities Board may, at the request of the Council, make a new order for the purpose only of consolidating the original and the subsequent orders.

See note to clause 10 of this Bill.

10. Section 20 is struck out and the following section is substituted:

20. (1) Subject to subsection (2), the board of each existing district shall furnish the Council with lists of the legal descriptions of the parcels shown on its assessment roll as containing a number of acres classified as "to be irrigated".

(2) Subsection (1) does not apply to a board where the board, prior to January 1, 1971, files with the Council a certified copy of a resolution of the board electing to have the order of the Council under this section establish the district as a district with outer boundaries.

(3) Where a board does not make an election under subsection (2), the Council shall, on the basis of the lists furnished under subsection (1), make an order declaring that the parcels described in the order constitute the district for all purposes.

(4) Where a board makes an election under subsection (2), the Council shall make an order establishing the district and describing the district by reference to its outer boundaries or as an area, but the district so described shall include within such boundaries or area all the parcels shown on the assessment roll as having a number of acres classified as "to be irrigated".

(5) An order under this section shall set out the same matters referred to in section 13, clause (a) as in the case of the formation of a new district.

(6) An order under this section shall not be construed as being an order for the formation of a new district.

(7) Where an order is made under this section, the area declared by the order to constitute the district is the area of the district notwithstanding anything in Part 8.

(8) Where the Local Authorities Board has, prior to the commencement of this section, made an order establishing a district under this section, the Council may

- (a) on its own motion make a new order replacing the order of that board but without changing the area of the district, or
- (b) if the board concerned makes an election under subsection (2) or (10), make a new order accordingly under subsection (4) or (11), as the case may be, replacing the previous order of the Local Authorities Board.

(9) After the Council makes an order under this section establishing the district as a district with outer boundaries, the board of the district concerned may file with the Council a certified copy of a resolution electing to have the dis-

10. Section 20 presently reads:

20. (1) The board of each existing district shall as soon as possible after the commencement of this Act furnish the Council with lists of the legal descriptions of the parcels shown on its assessment roll as containing a number of acres classified as "to be irrigated".

(2) The Local Authorities Board shall, on the application of the Council and on the basis of the lists furnished under subsection (1), make an order with respect to an existing district originally formed by an order of the Minister,

(a) declaring that the parcels described in the order constitute the area of the district for all purposes, and

(b) replacing and revoking the original order of the Minister and all subsequent orders of the Minister changing the content of the district.

(3) The Local Authorities Board shall, on the application of the Council and on the basis of the lists furnished under subsection (1), make an order with respect to the St. Mary River Irrigation District, the Bow River Irrigation District, the Eastern Irrigation District and the Western Irrigation District, declaring that the parcels described in the order constitute the district for all purposes.

(4) An order under this section shall set out the same matters referred to in clause (a) of section 13, as in the case of the formation of a new district.

(5) An order under this section shall not be construed as being an order for the formation of a new district.

(6) Where an order is made under this section, the area declared by the order to constitute the district is the area of the district notwithstanding anything in The St. Mary and Milk Rivers Development Act, 1950, The Bow River Development Act, The Eastern Irrigation District Act or the Western Irrigation District Act, as the case may be.

Prior to The Irrigation Act, 1968, the irrigation districts were established by Ministerial orders in some cases and by statute in others. The object of section 20 was to establish them all by orders of the Local Authorities Board and to describe them all as the aggregate of the parcels on the assessment roll.

Under the proposed section 20 the functions of the Local Authorities Board will be assumed by the Irrigation Council and a district board will have the power to elect whether the district will be described as the aggregate of its parcels on the assessment roll or as a contiguous area that would include lands not on the assessment roll.

trict consist solely of the parcels shown on the assessment roll as having a number of acres classified as "to be irrigated".

(10) After the Council makes an order under this section establishing a district, other than as a district with outer boundaries, the board of the district concerned may file with the Council a resolution electing to have the district established as a district with outer boundaries.

(11) Where a resolution is filed with it under subsection (9) or (10), the Council may make an order accordingly after the board has met any requirements of the Council that the Council may prescribe.

11. Section 20a, subsection (2) is amended by striking out the words "The Local Authorities Board shall, at the direction of the Council," and by substituting the words "The Council may".

12. The following sections are added after section 110:

110a. (1) In the case of a district with outer boundaries,

- (a) an owner of land in the district but not on the assessment roll, if there is no purchaser, or
- (b) a purchaser of land in the district but not on the assessment roll, with the consent of the owner,

may apply to the board to enter into an agreement with the board to have the land added to the assessment roll as a parcel.

(2) The board may refuse an application under subsection (1) or enter an agreement in accordance with the application.

(3) An agreement under this section may contain such terms and conditions as the board prescribes, including the payment to the board of such amount as it prescribes as the reasonable costs to be incurred for the construction of additional irrigation works for the benefit of the parcel to be added to the assessment roll.

(4) Where the board refuses an application under subsection (1) or where the applicant and the board cannot agree on the terms and conditions to be contained in the agreement, the applicant may request the Council to review the application.

(5) The Council, upon notice to the applicant and the board, shall hold a hearing to review the application and shall

- (a) where the board had previously refused the application, make an order either confirming the board's

11. Section 20a, subsection (2) presently reads:

(2) The Local Authorities Board shall, at the direction of the Council, amend its order forming or constituting the district in order to remove from the district the parcel or part thereof to which the notice under subsection (1) refers.

See note to clause 3 of this Bill.

12. The new sections 110a and 110b apply only to districts with outer boundaries. Section 110a provides a procedure for adding land on the assessment roll if it is then within the boundaries of the district but not a parcel on the roll and thereby entitled to receive irrigation water. If agreement cannot be reached, there are appeals to the Irrigation Council and then to the district court.

Section 110b provides a summary procedure for adding the board's land or Crown land to the assessment roll in a manner similar to section 14 of the Act regarding the addition of such lands to the district.

refusal of the application or granting the application and prescribing the terms and conditions to be contained in the agreement between the applicant and the board, or

(b) where the applicant and the board are unable to agree on the terms and conditions to be contained in the agreement, make an order prescribing the terms and conditions to be contained in the agreement.

(6) Where the board or the applicant objects to the order of the Council under subsection (5), the board or the applicant may apply to the district court for a review by the court of the application under subsection (1).

(7) An application to the district court under this section shall be made by way of originating notice of motion returnable within 30 days after the date on which the person applying received a copy of the Council's order under subsection (5) and the notice of motion shall be filed in the office of the clerk of the court at the judicial centre in which the parcel or land is situated.

(8) The judge hearing the motion shall review the application made under subsection (1) and the Council's decision under subsection (4) and shall make an order either

(a) refusing the application under subsection (1), or

(b) granting the application under subsection (1) and prescribing the terms and conditions to be contained in the agreement between the applicant and the board.

(9) A board shall not enter into an agreement under this section unless a by-law is passed authorizing it to do so.

(10) A board shall not add a parcel to the assessment roll pursuant to this section unless the agreement under this section is executed by the applicant and by the board, and nothing in this section obligates the applicant to execute the agreement, notwithstanding any order of the Council or the district court.

(11) Notwithstanding anything in this Act, land in a district with outer boundaries that is not on the assessment roll of the district as a parcel may be added to the assessment roll as a parcel only pursuant to an agreement under this section and not otherwise.

(12) This section does not affect or restrict the powers of the board under section 113 to alter or cancel the assessment of a parcel added to the assessment roll pursuant to this section, or part thereof, or the powers and duties of the manager to amend the assessment roll under sections 127, 128 or 130 with respect to such a parcel.

110b. (1) Notwithstanding any other provisions of this Act, in the case of a district with outer boundaries,

- (a) where the board of a district is the owner or purchaser of lands that are in the district but are not on the assessment roll as a parcel, the lands may at any time be added to the assessment roll as a parcel, if the approval of the Council and the consent of the purchaser from the board, if any, is first obtained, or
- (b) where the Crown in right of Alberta, is the owner of lands that are included in the district but not on the assessment roll as a parcel, the lands may at any time be added to the assessment roll as a parcel if the approval of the Council and the consent of the Crown and the purchaser, if any, has first been obtained.

13. Section 112 is amended by striking out subsection (7) and by substituting the following subsection:

(7) A map or plan prepared under subsection (2) shall not be used by the manager for the purposes of classifying or reclassifying any land pursuant to this section unless it is filed with the Council.

14. Section 145 is amended

- (a) as to subsections (1) and (2) by striking out the words "4 per cent" wherever they occur and by substituting the words "the prescribed maximum percentage",
- (b) by adding the following subsection:

(3) In this section "maximum prescribed percentage" means the percentage rate prescribed by the regulations of the Lieutenant Governor in Council as the prescribed maximum percentage for the purposes of this section.

15. Section 172 is amended

- (a) by striking out subsections (1) and (2) and by substituting the following subsections:

172. (1) Any person may make a claim against a board for compensation for seepage damage only if

- (a) he files a written notice of his claim at the office of the board not later than the first day of November in the year in which the seepage damage occurred,
- (b) the notice of claim complies with subsection (2), and

13. Section 112 deals with the classification of land in an irrigation district as land "to be irrigated" or as "other acres". Subsection (7) presently reads:

(7) A map or plan prepared under subsection (2) shall not be used by the manager for the purposes of this section unless it is filed with and approved by the Council.

The new subsection (7) is rewritten to remove the requirement for Irrigation Council approval of a map or plan prepared for the purposes of the section and to specify that the subsection also extends to cases where land is being reclassified.

14. Section 145, subsections (1) and (2) presently read:

145. (1) The board by by-law may provide that if at the close of business of any calendar year any amount shown in the collector's roll or any part thereof has not been paid, an amount not exceeding 4 per cent of the amount unpaid shall be added thereto by way of penalty on the next succeeding first day of January and on the first day of January in each succeeding year for so long as any part of the amount remains unpaid.

(2) A by-law under subsection (1) may also provide that if any amount shown in the collector's roll as of the first day of January of the year or any part thereof has not been paid by the next succeeding 30th day of June, a further amount not exceeding 4 per cent of the amount unpaid shall be added thereto by way of a penalty on the next succeeding first day of July and on the first day of July in each succeeding year for so long as any part of the amount remains unpaid.

15. Section 172, subsections (1) and (2) presently read:

172. (1) A person claiming

- (a) that water has escaped from any irrigation works of the board during any year by seepage, and
- (b) that as a result of the seepage he has sustained seepage damage which he would not have sustained had the seepage in that year not occurred,

shall notify the board of his claim by filing a written notice of claim at the office of the board not later than the first day of November in the same year.

(2) A notice of a claim filed under subsection (1) shall

- (a) identify the land where the seepage damage is claimed to have occurred,
- (b) set out particulars as to the nature of the seepage damage, and
- (c) set out the amount of money claimed as compensation by the claimant for the seepage damage.

The effect of the new subsection (1), clause (c) will be to bar claims for seepage damage against a board exempted under the proposed section 177a by reason of filing an approved ditch rehabilitation plan. Apart from this change, these provisions are rewritten to prevent a possible misinterpretation of subsection (1) that the seepage or the seepage damage or both can occur in the year prior to that in which the claim is filed. Also, it will not be mandatory that the amount of compensation claimed must be shown in the notice of claim, as in the present subsection (2), clause (c). The new subsection (4a) confers powers of entry on the board for the purpose of making examinations as to seepage and seepage damage.

- (c) the board is not exempted from the operation of this section and sections 173 to 177 by a regulation under section 177a or 177b.
- (2) A notice of claim filed under subsection (1) shall
 - (a) state that water has escaped from irrigation works of the board by seepage occurring in the year in which the notice is filed,
 - (b) state that as a result of the seepage the claimant has sustained seepage damage during the same year and that he would not otherwise have sustained such seepage damage had the seepage in that year not occurred,
 - (c) identify the land where the seepage damage occurred, and
 - (d) set out particulars as to the nature of the seepage damage.
- (b) by adding after subsection (4) the following subsection:
 - (4a) Where a notice of claim is filed under this section, a member or employee of the board or any other person authorized in writing by the board, may, without incurring liability therefor, from time to time enter upon the land of the claimant for any or all of the following purposes, namely,
 - (a) to examine the land for the purpose of ascertaining whether seepage has occurred on that land and the seepage damage arising therefrom;
 - (b) to bring onto the land any vehicles, equipment, instruments or things for the purpose of making any tests or examination of the land in order to ascertain whether seepage has occurred on that land, the extent or source of any seepage, or the extent or occurrence of any seepage damage;
 - (c) to leave on the land, relocate on the land and to operate any vehicles, equipment, instruments or things brought onto the land pursuant to clause (b) for such time as may reasonably be necessary to carry out the tests or examinations;
 - (d) to remove any vehicles, equipment, instruments or things brought onto the land pursuant to clause (b).

16. Section 173 is amended

- (a) by adding the following subsection after subsection (2):

(2a) Where, before or within 14 days after the date on which notice of claim is filed under section 172,

- (a) any crops which the claimant alleges to have been destroyed or damaged have been harvested, cut, plowed under, destroyed or otherwise made unfit for harvesting or incapable of being harvested, or
- (b) any act has been done to the property alleged to have been lost, injured or damaged that renders it difficult or impossible for the board to determine whether seepage occurred or whether seepage damage occurred in that year or its extent,

the claimant shall be put to the strict proof of all matters essential to his claim and the board shall not accept any evidence of the claimant that is not corroborated.

- (b) as to subsection (3), by adding after the words "proving the matters referred to in subsection (2)" the words "and where applicable, has proved his claim in accordance with subsection (2a)",
- (c) by adding after subsection (3) the following subsection:

(4) Notwithstanding anything in this Part, where it is shown at the hearing before the Public Utilities Board that the claimant or any person acting under his instructions or with his consent, whether express or implied,

- (a) has prohibited, restricted or interfered with any person in the exercise of any rights or powers conferred on that person by or pursuant to section 172, subsection (4a), or
- (b) has destroyed, damaged or interfered with any vehicle, equipment, instrument or thing brought onto the land pursuant to section 172, subsection (4a),

the board is not liable to pay the claim and the Public Utilities Board shall make an order dismissing the claim accordingly.

16. Section 173 deals with hearings before the Public Utilities Board regarding seepage damage claims. The new subsection (2a) will require strict proof of the claim in certain cases. Subsection (3) presently reads:

(3) If the Public Utilities Board finds that the claimant has satisfied the onus of proving the matters referred to in subsection (2), the Public Utilities Board may order that the board pay to the claimant compensation for the seepage damage sustained by the claimant in the year in respect of which the claim is made as a result of the seepage which occurred in that year.

The new subsection (4) will bar claims where there has been an interference with the board's powers of examination under the new subsection (4a) being added to section 172 by clause 15 of this Bill.

17. The following heading and sections are added after section 177:

Ditch Rehabilitation Plans

177a. (1) The board of a district may apply for the enactment of a regulation exempting it from the operation of sections 172 to 177.

(2) An application under subsection (1) shall be filed with the Council and shall be accompanied by a plan for the repair and rehabilitation of its irrigation works for the purpose of minimizing, and if possible preventing, seepage therefrom.

(3) The plan accompanying the application (in this section and sections 177b and 177c called the "ditch rehabilitation plan") shall

- (a) specify the period of years required to carry out the initial ditch rehabilitation plan,
- (b) show the work to be carried out in each year,
- (c) set out the estimated total cost of the program and the estimated cost for each year of the period referred to in clause (a),
- (d) in general, provide for the repair and rehabilitation of the irrigation works adjoining lands outside the district and lands in a district with outer boundaries that are not parcels on the assessment roll of the district in priority to the parcels on the assessment roll of the district.

(4) A ditch rehabilitation plan is subject to approval by the Council and in considering the plan for approval the Council, in addition to any other matters it considers relevant shall have regard to the following, namely,

- (a) the condition of the irrigation works and the incidence of seepage therefrom,
- (b) the total period of years likely to be required for the carrying out of the initial plan,
- (c) whether the plan, with respect to the work to be done in each year, is reasonable and whether it unfairly discriminates against any particular person or class of persons,
- (d) the board's financial ability to carry out the plan, and
- (e) the reasonableness of the board's estimates of the costs.

(5) The board may amend or replace its ditch rehabilitation plan but the amendment or the new plan, as the case may be, is subject to approval by the Council under subsection (4).

17. The new sections will provide that an Irrigation District Board will no longer be liable to pay seepage claims in the event that it obtains approval from the Irrigation Council for a ditch rehabilitation plan. The plan will provide for the repair and rehabilitation of the board's canals, etc. so as to minimize or prevent seepage. Under the plan the rehabilitation of canals affecting lands outside the district must be given priority over the rehabilitation of those belonging to the water users of the district.

If the ditch rehabilitation plan is approved then the Lieutenant Governor in Council will make a regulation exempting the board from sections 172 to 177, i.e., the provisions dealing with seepage damage claims. This exemption can be later revoked if the board has failed to carry out the plan in accordance with its terms.

(6) The Council may, in approving a plan under this section and in consultation with the board, make any changes in the plan that it considers necessary in order to give the approval.

(7) Where an initial plan, revised plan or new plan under this section is approved by the Council, the board shall carry out the approved plan with reasonable diligence.

(8) Where the Council approves the initial ditch rehabilitation plan of a board, it shall so report to the Lieutenant Governor in Council who shall by regulation exempt the board from the operation of sections 172 to 177.

(9) A regulation under subsection (8) shall be made effective on the date on which the board first filed its application under this section, notwithstanding that it is filed under *The Regulations Act* after that date.

177b. (1) Notwithstanding section 177a, where a board files an application under that section before January 1, 1971, the application may be accompanied by a preliminary ditch rehabilitation plan for 1970 and 1971 in lieu of filing a ditch rehabilitation plan in accordance with section 177a, subsection (3), and in that case, section 177a, subsections (5) and (6) apply to the preliminary ditch rehabilitation plan.

(2) Where the Council approves a preliminary ditch rehabilitation plan it shall so report to the Lieutenant Governor in Council who shall, by regulation, exempt the board from the operation of sections 172 to 177 with respect to the years 1970 and 1971, notwithstanding that notices of claims for seepage damage have been filed with the board prior to the date of filing of the regulation under *The Regulations Act*.

177c. The Lieutenant Governor in Council may on the recommendation of the Irrigation Council revoke a regulation made under section 177a, subsection (8) where he is satisfied, on the basis of a report made by the Irrigation Council,

- (a) that the board has failed to carry out its ditch rehabilitation plan with reasonable diligence, or
- (b) that the board has failed to carry out the repair and rehabilitation of its irrigation works in accordance with the approved ditch rehabilitation plan and the failure to do so is not due to any circumstances beyond the board's control.

18. Section 179, subsection (1) is amended by adding after clause (a) the following:

- (a1) prescribing a percentage rate as the prescribed maximum percentage for the purposes of section 145,

1b. Section 179, subsection (1) enables the Lieutenant Governor in Council to make regulations. See clause 14 of this Bill.

19. *The Irrigation Land Manager Act* is amended

- (a) as to section 3, by striking out subsection (3) and by substituting the following subsection:

(3) The Lieutenant Governor in Council may appoint a person as the Assistant Irrigation Land Manager and the person so appointed

(a) may, subject to the direction of the Land Manager, exercise the powers and perform the duties of the Land Manager, and

(b) shall be deemed to be appointed as the Irrigation Land Manager in the event that the office of Land Manager becomes vacant, until an appointment is made under subsection (1).

- (b) as to section 6, subsection (3), by adding the following after clause (a):

(a1) develop or make improvements on any lands held by him,

- (c) as to section 7, by striking out subsection (4).

20. This Act comes into force on the day upon which it is assented to.

19. This Section amends chapter 56 of the Statutes of Alberta, 1969. Section 3, subsection (3) presently reads:

(3) The Lieutenant Governor in Council may appoint an acting Land Manager who shall, subject to any special directions of the Land Manager, be the acting Land Manager in the event of the Land Manager's absence or a vacancy in the office of the Land Manager and who has the power and duties of the Land Manager when so acting.

Section 6, subsection (3) enumerates the powers of the Irrigation Land Manager regarding property.

Section 7, subsection (4) presently reads:

(4) No money shall be expended for or loaned to any one prospective owner for any of the purposes set out in this section in excess of the aggregate sum of \$10,000.