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THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 21

IRRIGATION DISTRICTS ACT

MR. STEVENS

First Reading
Second Reading
Committee of the Whole
Third Reading
Royal Assent

BILL 21

1999

IRRIGATION DISTRICTS ACT

(Assented to , 1999)

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Schedule

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

Definitions

1 In this Act,

- (a) "annual agreement" means an annual agreement entered into under section 16;
- (b) "annual agreement fee" means an annual agreement fee imposed pursuant to a by-law made under section 115;

- (c) “assessment notice” means a notice given under section 105;
- (d) “assessment roll” means the assessment roll of a district;
- (e) “billing notice” means a notice given under section 130;
- (f) “board” means a board of directors of a district;
- (g) “capital charge” means
 - (i) a capital assets charge imposed against land pursuant to a by-law made under section 125, or
 - (ii) a capital construction charge imposed against land pursuant to a by-law made under section 126;
- (h) “Council” means the Irrigation Council established under section 50;
- (i) “Department” means the Department of Agriculture, Food and Rural Development;
- (j) “district” means, as the context requires,
 - (i) any or all of the districts listed in section 5, or
 - (ii) the geographical area consisting of the parcels of land included in an existing district or a district formed under this Act;
- (k) “elected” means elected as a director at an election of directors under Part 3;
- (l) “existing district” means an irrigation district that was formed or was in existence under the *Irrigation Act*;
- (m) “expansion limit” means the maximum of the total number of irrigation acres plus acres subject to a terminable agreement in a district as specified in Table 2 of the Schedule or in a by-law of the district;
- (n) “first mortgage” means a mortgage or an encumbrance in the form prescribed under the *Land Titles Act* on land forming part of a district that has been registered in the proper land titles office prior to the formation of the district or the addition of the land to the district and that has priority over all other similar mortgages and encumbrances against the same land;

- (o) “household” means household as defined in the regulations under the *Water Act*;
- (p) “household purposes” means the use of a maximum of 1250 cubic metres of water per year per household for the purposes of human consumption, sanitation, fire prevention and watering animals, gardens, lawns and trees;
- (q) “household purposes agreement” means an agreement entered into under section 19(1);
- (r) “household purposes fee” means a household purposes fee imposed pursuant to a by-law made under section 115;
- (s) “irrigable unit” means land in a district consisting of
 - (i) a quarter section, a part of a quarter section described in a certificate of title or a surveyed lot, or
 - (ii) land designated as an irrigable unit under section 23;
- (t) “irrigation acres” means the acres in a parcel recorded on the assessment roll as “irrigation acres”;
- (u) “irrigation charge” means a charge against a parcel based on the calculation made under section 120(1) or a minimum charge referred to under section 121;
- (v) “irrigation rate” means the rate imposed per irrigation acre pursuant to a by-law made under section 118;
- (w) “irrigation works” means any structure, device, contrivance or thing or any artificial body of water or watercourse used or to be used by a district and includes, without limitation,
 - (i) any dike, dam, weir, breakwater, drainage works, ditch, basin or reservoir,
 - (ii) any canal, tunnel, bridge, culvert, embankment, headwork, aqueduct, pipe, pump or floodgate,
 - (iii) any contrivance for measuring water, and
 - (iv) any building or fence or other works in any way used in or in relation to the carrying out by a district of its obligations or responsibilities to supply water;
- (x) “irrigator” means an owner of a parcel with irrigation acres;

- (y) “land classification standards” and “land assessment criteria” mean the land classification standards and land assessment criteria established under the regulations;
- (z) “Land Compensation Board” means the Land Compensation Board established under the *Expropriation Act*;
- (aa) “local authority” means
 - (i) the corporation of a city, town, village, summer village, municipal district or specialized municipality,
 - (ii) in the case of an improvement district or special area, the Minister of Municipal Affairs,
 - (iii) the board of trustees of a district or division as defined in the *School Act*, and
 - (iv) any other entity defined as a local authority in the regulations for the purposes of this Act;
- (bb) “manager” means the manager of a district;
- (cc) “Minister” means the Minister of Agriculture, Food and Rural Development;
- (dd) “municipality” means the land within a city, town, village, municipal district, improvement district or special area;
- (ee) “occupier” means a person in actual occupation of land other than an owner;
- (ff) “other user” means all users other than irrigators;
- (gg) “owner”, with respect to land, means
 - (i) the registered owner of the land, or
 - (ii) the purchaser;
- (hh) “parcel” means land consisting of a quarter section, a part of a quarter section described in a certificate of title, a surveyed lot or land designated as an irrigable unit pursuant to section 23;
- (ii) “point of delivery” means the point on the irrigation works from which the district delivers and the user receives water;
- (jj) “predecessor of a board” means,

- (i) with reference to the board of the St. Mary River Irrigation District, the manager of the St. Mary and Milk Rivers Development, or
 - (ii) with reference to the board of the Bow River Irrigation District, the manager of the Bow River Development;
- (kk) “purchaser” means the purchaser of land whose interest as a purchaser is shown on the certificate of title to that land;
- (ll) “registered owner”, with respect to land, means the person registered in a land titles office as the owner of the fee simple in the land;
- (mm) “remote delivery agreement” means an agreement entered into under section 24;
- (nn) “surcharge” means a surcharge referred to in section 122;
- (oo) “surveyed lot” means an unsubdivided unit of land, the boundaries of which are shown on a settlement plan, parcel plan, a plan of survey in respect of an easement or a right of way or any plan of subdivision registered under the *Land Titles Act*;
- (pp) “terminable agreement” means an agreement entered into under section 17;
- (qq) “terminable agreement charge” means a charge against a parcel based on the calculation made under section 120(2);
- (rr) “*The I. D. Act*” means *The Irrigation Districts Act* (RSA 1955 c162);
- (ss) “use of irrigation works agreement” means an agreement entered into under section 20;
- (tt) “use of irrigation works fee” means a use of irrigation works fee imposed pursuant to a by-law made under section 115;
- (uu) “user” means any person who receives water, for any purpose, through the irrigation works and includes irrigators, other users and a person who is a party to a use of irrigation works agreement under section 20 or a water conveyance agreement under section 21;
- (vv) “water conveyance agreement” means an agreement entered into under section 21;

(ww) “water conveyance fee” means a water conveyance fee imposed pursuant to a by-law made under section 115.

- Purpose of Act **2** The purpose of this Act is to provide for the formation, dissolution and governance of irrigation districts in order that the management and delivery of water in the districts occur in an efficient manner that provides for the needs of the users.
- Crown is bound **3** Except where this Act specifically provides to the contrary, the Crown is bound by this Act.
- Delegation **4(1)** The Minister may in writing delegate to any employee of the Department or to the Council any power conferred or duty imposed on the Minister under this Act.
- (2)** Subsection (1) does not apply to the power or duty to make regulations.

PART 1

IRRIGATION DISTRICT POWERS, DUTIES AND AGREEMENTS

Powers and Duties

- Establishment of districts **5** The following corporations are established:
- (a) Aetna Irrigation District;
 - (b) Bow River Irrigation District;
 - (c) Eastern Irrigation District;
 - (d) Leavitt Irrigation District;
 - (e) Lethbridge Northern Irrigation District;
 - (f) Magrath Irrigation District;
 - (g) Mountain View Irrigation District;
 - (h) Raymond Irrigation District;
 - (i) Ross Creek Irrigation District;
 - (j) St. Mary River Irrigation District;

- (k) Taber Irrigation District;
- (l) United Irrigation District;
- (m) Western Irrigation District.

Purposes and
powers of a
district

6(1) The purpose of each district is

- (a) to convey and deliver water through the irrigation works of the district in accordance with this Act,
- (b) to divert and use quantities of water in accordance with the terms and conditions of its licence under the *Water Act*,
- (c) to construct, operate and maintain the irrigation works of the district, and
- (d) to maintain and promote the economic viability of the district.

(2) To carry out its purposes a district has the capacity and, subject to this Act, the regulations and the by-laws, the rights, powers and privileges of a natural person.

Commercial
activities

7(1) No district may carry on a commercial activity that requires an investment of an amount that is more than the total amount of irrigation charges paid by the irrigators of the district in the year the investment is proposed unless the board

- (a) holds a meeting with the public, and
- (b) by resolution authorizes the holding of a plebiscite to obtain the approval of the irrigators.

(2) A board of a district, not less than 30 days before the board intends to consider a resolution referred to in subsection (1)(b), must give public notice of its intention to consider the resolution and the date, time and location of the meeting with the public.

(3) The question that the plebiscite shall determine must be

- (a) in accordance with the regulations, and
- (b) included in a resolution of the board of the district.

(4) The provisions of Part 3 governing an election apply to the holding of a plebiscite unless otherwise provided by regulations under this Act.

- (5) A commercial activity is approved by plebiscite if
- (a) more than $\frac{2}{3}$ of the irrigators voting vote in favour of the activity, and
 - (b) those irrigators voting in favour of the activity referred to in clause (a) are the registered owners of more than $\frac{2}{3}$ of the irrigation acres represented by the total votes cast in the plebiscite.
- (6) If the irrigators approve a commercial activity, the district must carry on the activity by doing one or more of the following:
- (a) by incorporating
 - (i) a corporation under the *Business Corporations Act* or the *Canada Business Corporations Act* (Canada), or
 - (ii) an association under the *Co-operative Associations Act*;
 - (b) by holding shares in or being a member of a corporation or an association referred to in clause (a);
 - (c) by holding all or any portion of the debt of a corporation or an association referred to in clause (a);
 - (d) by managing or operating, in whole or in part, a corporation or an association referred to in clause (a);
 - (e) by entering into agreements or arrangements with a corporation or an association referred to in clause (a).
- (7) Where a corporation or an association referred to in subsection (6)(a) is eligible to be exempted from
- (a) assessment and taxation pursuant to the *Municipal Government Act*, or
 - (b) liability to pay a fee imposed under a law of Alberta,
- that exemption must not apply to that corporation or association if the only reason that exemption would apply to the corporation or association is the fact that the district, directly or indirectly,
- (c) owns shares in or is a member of that corporation or association,
 - (d) holds a debt of that corporation or association,

- (e) operates or manages, in whole or in part, that corporation or association, or
- (f) owns or has possession or control over the property on which or by which the corporation or association carries on its activity.

(8) Where a district incorporates a corporation or association under subsection (6)(a), another district may carry on the same commercial activity and do one or more of the activities referred to in subsection (6)(b) to (e) if that other district obtains

- (a) the approval of the irrigators in the manner set out in subsections (1) to (5), and
- (b) the consent of the district incorporating the corporation or association.

Mineral rights

8 Notwithstanding any return, order, certificate of title or other document conveying or evidencing title, no mines and minerals are acquired or have been acquired at any time on and after December 1, 1925 by a district

- (a) by any expropriation or enforcement proceedings under this Act, the *Irrigation Act*, *The I. D. Act* or *The Lethbridge Northern Rates Enforcement Act*, or
- (b) by any other acquisition of land unless the document conveying the land describes the mines and minerals conveyed to the district by that document.

Expropriation

9 A district may acquire an estate or interest in land required

- (a) for the irrigation works of the district,
- (b) for a road to provide access to irrigation works of the district, or
- (c) for a road to provide access to land that has become inaccessible by reason of the construction of any irrigation works of the district

by expropriation under the *Expropriation Act*.

Relocation of
irrigation
works

10(1) In this section, “relocate irrigation works” means relocate irrigation works as defined in the regulations.

(2) If a district proposes to relocate irrigation works in the district, the district must advertise the proposal to relocate irrigation works in a newspaper having general circulation in the district

- (a) setting out the particulars of the relocation, and
- (b) stating that any persons wishing to complain must submit a written complaint to the district within 30 days after the date of publication of the notice.

(3) The district must consider all written complaints that are received within the 30-day period referred to in subsection (2)(b) before giving notice under subsection (4).

(4) If, after considering any written complaints received in the time prescribed in subsection (3), the district decides to proceed with the relocation of irrigation works, the district must give written notice setting out the particulars of the relocation to

- (a) the owners of the land where the irrigation works are located,
- (b) the owners of the land on which the district proposes to relocate irrigation works,
- (c) the owners of land adjoining the land of persons referred to in clauses (a) and (b),
- (d) the owners of land having a common boundary with or a point on each boundary separated only by a road allowance or land held as a right of way for irrigation works or a public highway, railway, pipeline, electrical transmission line or telecommunications line from the land of persons referred to in clauses (a) and (b), and
- (e) the local authority in the district in which the irrigation works are located.

(5) A written notice under subsection (4) must contain a statement of the right to appeal to the Council under section 167(1)(c).

Transfer of
water licence

11(1) No district may make an application for a transfer of an allocation of water under a licence pursuant to section 81 of the *Water Act* unless the board

- (a) holds a meeting with the public, and
- (b) by resolution authorizes the holding of a plebiscite to obtain the approval of the irrigators.

- (2) A board of a district, not less than 30 days before the board intends to consider a resolution referred to in subsection (1)(b), must give public notice of its intention to consider the resolution and the date, time and location of the meeting with the public.
- (3) The question that the plebiscite shall determine must be
 - (a) in accordance with the regulations, and
 - (b) included in a resolution of the board of the district.
- (4) The provisions of Part 3 governing an election apply to the holding of a plebiscite unless otherwise provided by regulations under this Act.
- (5) An application referred to in subsection (1) is approved by plebiscite if more than 50% of the irrigators voting vote in favour of the application.

Expansion
limit

- 12(1)** The sum of the irrigation acres plus the acres subject to a terminable agreement in a district must not exceed the expansion limit for that district.
- (2) The expansion limit for each district is specified in Table 2 of the Schedule.
- (3) Notwithstanding subsection (2), a district may by by-law change the expansion limit.
- (4) If a district proposes to make a by-law under subsection (3), the board must
 - (a) hold a meeting with the public, and
 - (b) by resolution authorize the holding of a plebiscite to obtain the approval of the irrigators.
- (5) A board of a district, not less than 30 days before the board intends to consider a resolution referred to in subsection (4)(b), must give public notice of its intention to consider the resolution and the date, time and location of the meeting with the public.
- (6) The question that the plebiscite shall determine must be
 - (a) in accordance with the regulations, and
 - (b) included in a resolution of the board of the district.

(7) The provisions of Part 3 governing an election apply to the holding of a plebiscite unless otherwise provided by regulations under this Act.

(8) The by-law referred to in subsection (3) is approved by plebiscite if more than 50% of the irrigators voting vote in favour of the by-law.

Stoppage of
water delivery

13(1) A district may stop the delivery of water to a parcel if the district is of the opinion

- (a) that any further delivery of water may exceed the amount prescribed by by-law, or
- (b) the owner or lessee of the parcel has used or is using the water delivered by the district in a manner that is causing or may cause loss or damage to property or loss or injury to any person.

(2) A district may stop the delivery of water to a parcel subject to an annual agreement or terminable agreement if the district is of the opinion that it may not be able to deliver sufficient water to the irrigation acres of the district or to the irrigation acres in a portion of the district.

(3) If the district stops the delivery of water to a parcel under subsection (2) it must do so in the following order:

- (a) first, acres in a parcel subject to an annual agreement;
- (b) 2nd, acres in a parcel subject to a terminable agreement.

(4) If a district intends to stop the delivery of water under this section, it must provide written notice to the owner or lessee of the parcel at least 24 hours before the delivery of water is stopped.

Irrigation Acres and Agreements

Irrigation acres

14 Subject to this Act, an irrigator has the right to receive water for irrigation purposes for irrigation acres until the irrigation acres are removed from the assessment roll in accordance with this Act.

Agreements

15 Where the district enters into an agreement for a purpose specified in sections 16, 17, 19, 20 or 21, the district must do so in accordance with that section.

**Annual
agreement**

16(1) An owner or lessee of a parcel may apply to the district to enter into an annual agreement.

(2) An annual agreement authorizes the delivery of water through the irrigation works of the district to that parcel for irrigation purposes.

(3) An annual agreement is subject to the following:

- (a) that the parcel that is the subject of the agreement is assessed in accordance with section 95;
- (b) that the lessee of a parcel, if any, obtains the consent of the owner;
- (c) that the acres that are the subject of the agreement are added to the assessment roll;
- (d) that the agreement expires at the end of the calendar year;
- (e) that the acres that are the subject of the agreement are deleted from the assessment roll when the agreement expires.

**Terminable
agreements**

17(1) An owner or lessee of a parcel may apply to the district to enter into a terminable agreement with the district.

(2) A terminable agreement authorizes the delivery of water through the irrigation works of the district to the parcel for irrigation purposes.

(3) A terminable agreement is subject to the following:

- (a) that the parcel that is the subject of the agreement is assessed in accordance with section 95;
- (b) that the lessee of the parcel, if any, obtains the consent of the owner;
- (c) that the acres that are the subject of the agreement are added to the assessment roll;
- (d) that the agreement provides that it is terminable at the option of either party on the giving of notice before March 1 in a calendar year;
- (e) that the acres that are the subject of the agreement are deleted from the assessment roll when the agreement expires or notice is given in accordance with clause (d).

Limitations re agreements	18 Sections 25 and 26 do not apply to acres subject to an annual agreement or a terminable agreement.
Household purposes agreements	<p>19(1) An owner or lessee of a parcel may apply to the district to enter into a household purposes agreement with the district.</p> <p>(2) A household purposes agreement authorizes the delivery of water through the irrigation works of the district for household purposes.</p> <p>(3) A household purposes agreement is subject to the following:</p> <ul style="list-style-type: none"> (a) that a lessee of a parcel, if any, obtains the consent of the owner; (b) that the agreement provides that it is terminable at the option of either party on giving at least 60 days' notice of termination. <p>(4) Water delivered to a parcel with irrigation acres may be used for household purposes on the same parcel without a household purposes agreement.</p>
Use of irrigation works agreements	<p>20(1) In this section and in section 21, "person" includes an individual or group of individuals, a partnership, a trust, a body corporate as defined in section 36(1) or a government.</p> <p>(2) Any person may enter into a use of irrigation works agreement with a district.</p> <p>(3) A use of irrigation works agreement authorizes the use of the irrigation works for purposes other than the delivery or removal of water.</p> <p>(4) If the use of irrigation works agreement is with an owner of a parcel, the parcel must be contiguous to, or have passing through it,</p> <ul style="list-style-type: none"> (a) irrigation works of the district, or (b) a natural water body, watercourse or reservoir fed by water diverted by means of irrigation works of the district. <p>(5) A use of irrigation works agreement under subsection (4) may include terms and conditions allowing the owner of the parcel to construct works specified in the agreement on the property of the district.</p>

(6) If a use of irrigation works agreement is entered into under subsection (4), the manager must direct the Registrar of Land Titles to add a notice to the certificate of title that the parcel is subject to a use of irrigation works agreement.

Water
conveyance
agreements

21(1) Any person may apply to enter into a water conveyance agreement with the district.

(2) A water conveyance agreement may authorize

(a) the delivery of water to an area for a purpose other than irrigation purposes or household purposes, or

(b) the removal of drainage water, stormwater or wastewater from an area.

(3) If a district refuses to enter into a water conveyance agreement, the district must give written notice to the applicant within 90 days of the application.

(4) If a district fails to give written notice or fails to enter into an agreement within the time prescribed in subsection (3), the district is deemed to have refused to enter into a water conveyance agreement.

(5) A written notice under subsection (3) must contain a statement of the right to appeal to the Council under section 167(1)(b)(iii).

(6) If a water conveyance agreement is entered into under this section, the district must not deliver or remove water under the agreement until the other party to the agreement has complied with the requirements, if any, of the *Water Act*, the *Environmental Protection and Enhancement Act* and the regulations under those Acts.

Records for
household
purposes/use
of irrigation
works/water
conveyance
agreements

22(1) When a district enters into a household purposes agreement, a water conveyance agreement or a use of irrigation works agreement, the manager must keep a record of

(a) the household purposes, use of irrigation works or water conveyance fees imposed under the by-laws, and

(b) the name and address of the person liable for the fees in respect of the agreement.

(2) A record made of an agreement under this section must be maintained separately from the assessment roll and does not form part of the assessment roll.

Irrigable unit

23(1) When the registered owners of land consent in writing, the district may by resolution designate as an irrigable unit land in the district consisting of any combination of 2 or more quarter sections, parts of a quarter section or surveyed lots where the whole or any part of the land contains irrigation acres and is or can be irrigated as a unit from the existing irrigation works of the district if the lands

- (a) have a common boundary,
- (b) are contiguous at any point along a boundary, or
- (c) have a common boundary or a point on each boundary separated only by a road allowance or land held as a right of way for irrigation works or a public highway, railway, pipeline, electrical transmission line or telecommunications line.

(2) The district must file with the Registrar of Land Titles a certified copy of a resolution under subsection (1) designating an irrigable unit.

(3) On the filing of a resolution under subsection (2), the Registrar of Land Titles must endorse on every certificate of title to the land affected by the resolution a notice that the land is designated as or as part of an irrigable unit and that subsections (4), (5) and (6) apply in respect of that land.

(4) On the filing of a resolution under subsection (2), an instrument given by the registered owner or any other person owning any estate or interest in an irrigable unit and purporting to transfer, sell, agree to sell or otherwise deal with a part only of the irrigable unit is not valid or effective until the instrument is consented to by the district and a memorandum of the district's consent is endorsed on or annexed to the instrument.

(5) The consent of the district under subsection (4) may be made subject to any terms and conditions the district prescribes.

(6) Notwithstanding subsection (4), an instrument given by a registered owner or any other person owning any estate or interest in an irrigable unit that purports to transfer, sell, agree to sell or otherwise deal with only a part of the irrigable unit may do so without the consent of the district to the instrument if the instrument is made in favour of a person who is empowered to expropriate any or part of the land comprising the irrigable unit.

(7) A district may rescind a resolution made under subsection (1) with the consent of the registered owners of the land designated as an irrigable unit by the resolution.

(8) If a district rescinds a resolution under subsection (7), the district must notify the Registrar of Land Titles that the parcel is no longer designated as or as part of an irrigable unit.

(9) On receiving a notice under subsection (8), the Registrar of Land Titles must cancel the endorsement on the certificate of title made under subsection (3).

Remote
delivery
agreements

24(1) Where a parcel cannot be served by the existing irrigation works, the owner of the parcel may apply to the district to enter into an agreement with the district to deliver water to a specific point on the existing irrigation works for the purpose of irrigating that parcel.

(2) An agreement under subsection (1) is subject to the following conditions:

- (a) that the parcel is added to the district in accordance with Part 4;
- (b) that the parcel contains irrigation acres;
- (c) that the district designates a point on the existing irrigation works as the point of delivery for that parcel;
- (d) that the owner acquires and agrees in writing to maintain any right of way or easement necessary to convey water from the designated point of delivery to the parcel.

(3) An agreement under subsection (1) may provide for the sharing of costs to construct and maintain the necessary works to convey water from the designated point of delivery to the parcel.

(4) When an agreement is entered into under subsection (1), the district must file with the Registrar of Land Titles a notice that the parcel is subject to a remote delivery agreement.

(5) On receiving a notice under subsection (4), the Registrar of Land Titles must endorse on the certificate of title to the land affected by the agreement a notice that the land is subject to a remote delivery agreement and that subsection (6) applies in respect of that land.

(6) On the filing of a notice under subsection (4), every instrument given by the owner or any other person owning any estate or interest in the parcel and purporting to transfer, sell, agree to sell or otherwise deal with the parcel is subject to the agreement, and the agreement is binding on all those with an interest in the land and their successors.

(7) Where the owner fails to maintain the right of way or easement, the district may, by written notice, direct the owner to comply with the notice in accordance with its terms.

(8) If the owner has not complied with the terms of the notice under subsection (7) within 60 days from the date the notice was sent by the district, the district may cancel the remote delivery agreement.

(9) If the district cancels the agreement under subsection (8), the district must

- (a) delete the irrigation acres from the assessment roll, and
- (b) notify the Registrar of Land Titles that the parcel is no longer subject to a remote delivery agreement.

(10) On receiving a notice under subsection (9), the Registrar of Land Titles must cancel the endorsement on the certificate of title made under subsection (5).

Alternate
parcel
irrigation
agreements

25(1) An irrigator may apply to the district to use water to irrigate an alternate parcel not included on the assessment roll in lieu of using water to irrigate irrigation acres if the irrigator is the owner or lessee of that alternate parcel.

(2) If the irrigator is the lessee of the alternate parcel referred to in subsection (1), the application must include the consent of the owner.

(3) The district must publish in a newspaper that has general circulation in the district a notice of the date by which an application under subsection (1) must be made.

(4) The district may approve an application under subsection (1) and enter into an agreement with the irrigator if

- (a) the district is able to deliver water to the alternate parcel, and
- (b) the land has been classified in accordance with section 95(2)(a).

(5) An agreement under this section is subject to the following conditions:

- (a) that the number and legal description of the irrigation acres be specified in the agreement;

- (b) that the irrigator not use water for irrigation purposes on the irrigation acres;
 - (c) that the number of acres irrigated in the alternate parcel not exceed the number of irrigation acres;
 - (d) that irrigation charges for the irrigation acres continue to apply to those irrigation acres in addition to any other charges that may apply to the parcel with the irrigation acres;
 - (e) that the term of the agreement commences May 1 and expires on December 31 of the same year.
- (6) Charges as defined in Part 6 that apply to the irrigation acres specified in the agreement are enforceable in accordance with Part 6.
- (7) The manager must keep a record of alternate parcel agreements.

Transfer of
irrigation acres

26(1) An irrigator may apply to the district to transfer irrigation acres to another parcel if

- (a) the owners of both parcels agree to the transfer, and
 - (b) the parcels are served by the same district.
- (2) The district must publish in a newspaper that has general circulation in the district a notice of the date by which an application under subsection (1) must be made.
- (3) The district must give written notice of its decision to approve or refuse an application within 90 days of the date published in accordance with subsection (2).
- (4) A written notice under subsection (3) must contain a statement of the right to appeal to the Council under section 167(1)(b)(ii).
- (5) If the district approves an application under subsection (1), the manager
- (a) must amend the assessment roll for each parcel accordingly,
 - (b) must add the parcel receiving the irrigation acres to the district in accordance with Part 4 if that parcel is not already part of the district, and

- (c) may remove the parcel previously containing the irrigation acres from the district if, as a result of the transfer, the parcel contains no irrigation acres.

PART 2

GOVERNANCE, IRRIGATION DISTRICTS, IRRIGATION COUNCIL AND IRRIGATION SECRETARIAT

Division 1 Irrigation District

District Board

- | | |
|---------------|--|
| Board | 27 Every district must have a board. |
| First board | <p>28(1) The Minister must appoint the first board of a district formed under Part 4 for a term of one year.</p> <p>(2) The Minister must designate one member of the board as the chair and another member as the vice-chair.</p> <p>(3) The first board appointed under this section must hold an election on a date prescribed by a by-law of the district.</p> <p>(4) A by-law described in subsection (3) must be made within one year of the appointment of the first board under subsection (1).</p> <p>(5) If the date for the election occurs after the expiry of the term of appointment for the first board, the members of the board appointed under this section must continue as members until the election is held.</p> <p>(6) An election under this section must be conducted in accordance with Part 3.</p> |
| Board members | <p>29(1) Unless otherwise provided in this Act, the board of each district must consist of elected members.</p> <p>(2) The board consists of the number of members fixed by a resolution passed at an annual general meeting of the district.</p> <p>(3) A resolution passed under subsection (2) is not effective until it is approved by resolution of the board at the first meeting of the board after the annual general meeting.</p> <p>(4) If no resolution is passed under subsection (2), the board consists of</p> |

- (a) 3 members, if the assessment roll of the district shows 90 000 irrigation acres or less,
- (b) 5 members, if the assessment roll of the district shows more than 90 000 irrigation acres but less than 200 000 irrigation acres, or
- (c) 7 members, if the assessment roll of the district shows 200 000 irrigation acres or more.

(5) A resolution approved under subsection (3) or a change in the number of irrigation acres of a district does not affect the right of any elected members of the board to continue as members for the terms for which they were elected.

(6) If the number of members of a board is determined in accordance with subsection (4), the number of members to be elected at the next general election must be determined by the number of irrigation acres as of the January 1 immediately preceding the general election.

Members
appointed by
district

30(1) A board may by resolution appoint additional members who are not irrigators of the district to the board for terms of up to 3 years.

(2) The number of members appointed under subsection (1) must not exceed 50% of the number of elected members of the board.

(3) A member appointed under subsection (1) has voting rights on the board.

Vacancies

31(1) The Minister may appoint a person as a member of the board when a vacancy occurs on the board by reason of

- (a) the failure to nominate the number of candidates for election equal to or in excess of the number of members to be elected,
- (b) the failure to nominate any candidate for an electoral division, when the nomination and election of members are by electoral divisions,
- (c) the Minister's dismissal of a member under section 32(1)(b), or
- (d) the Council declaring the member to be disqualified under section 38(5).

(2) The term of a person appointed under subsection (1) expires at the beginning of the first meeting of the board after the next election in the district.

(3) The Minister may, instead of appointing a person as a member of a board under subsection (1), give directions to the manager to hold an election to elect a member and may appoint a member to hold office until the election is held.

(4) If the office of a member of the board becomes vacant before that member's term of office expires for any reason other than the reasons described in subsection (1), the remaining members must

- (a) give directions to the manager to hold an election to elect a member to the board in which case they may appoint a member to hold office until the election is held,
- (b) appoint a person who is eligible under section 35 or 36 to fill the vacancy for the unexpired term, or
- (c) leave the member's position vacant until the next election.

Dismissal and
replacement of
board

32(1) The Minister may dismiss

- (a) the board of a district if the Minister is satisfied that
 - (i) the district has defaulted on the payment of any of its liabilities,
 - (ii) the board is not complying with this Act, the regulations or the by-laws, or
 - (iii) the actions of the district may prejudice or have prejudiced the interests of the irrigators or the creditors of the district,

or

- (b) one or more members of the board if the Minister is satisfied, after reviewing a recommendation of the Council under section 65(4)(b), that
 - (i) the election was irregularly or improperly conducted, or
 - (ii) corrupt practices prevailed at the election which materially affected the result of the election.

(2) If

(a) a board is dismissed under subsection (1), the Minister must

(i) appoint a new board, or

(ii) direct that an election be held in accordance with Part 3 to elect a new board and appoint an official administrator in place of the board until the election is held,

and

(b) a member of the board is dismissed under subsection (1)(b), the Minister must exercise the Minister's powers under section 31(1)(c) or (3).

(3) A board appointed under subsection (2)(a)(i) is appointed for a term of one year and must be replaced by a board consisting of elected members in accordance with section 29.

(4) If the Minister appoints a person under section 31(1), the appointment expires at the beginning of the first meeting of the board after the next election in the district.

Eligibility of Board Members

Definitions

33 For the purposes of sections 34 and 35,

(a) "corporation", "director", "distributing corporation", "officer", "shareholder", "voting rights" and "voting shares" have the meanings given to them in the *Business Corporations Act*;

(b) "member of the board's family" means the member's spouse, the member's children, the parents of the member and the parents of the member's spouse;

(c) "spouse"

(i) includes a party to a relationship between a man and a woman who are living together on a bona fide domestic basis, and

(ii) does not include a spouse who is living apart from the other spouse if the spouses have separated pursuant to a written separation agreement or if their support obligations and family property have been dealt with by a court order.

Pecuniary
interest

34(1) A member of a board has a pecuniary interest in a matter if

- (a) the matter could monetarily affect the member or an employer of the member, or
- (b) the member knows or should know that the matter could monetarily affect a member of the board's family.

(2) For the purposes of subsection (1), a person is monetarily affected by a matter if the matter monetarily affects

- (a) the person directly,
- (b) a corporation, other than a distributing corporation, in which the person is a shareholder, director or officer,
- (c) a distributing corporation in which the person beneficially owns voting shares carrying at least 10% of the voting rights attached to the voting shares of the corporation or of which the person is a director or officer, or
- (d) a partnership or firm of which the person is a member.

Eligibility

35(1) A person is eligible to become or to remain as a member of the board of a district if that person

- (a) is 18 years of age or older,
- (b) is an irrigator, except for a member appointed by the district under section 30,
- (c) is an irrigator with irrigation acres in the electoral division if the election of directors is to be or was by electoral division, and
- (d) is a Canadian citizen or a permanent resident within the meaning of the *Immigration Act* (Canada).

(2) A person is not eligible to become a member of the board of a district if that person

- (a) is an employee of the district,
- (b) is indebted to the district for any amount shown in the collector's roll for more than one calendar year immediately preceding the date of the election,
- (c) is a party to a subsisting contract with the district under which money of the district is payable or may become payable for any work, service, matter or thing, or

- (d) has a pecuniary interest, direct or indirect, in any subsisting contract with the district under which money of the district is payable or may become payable for any work, service, matter or thing.
- (3) A person is not eligible to remain as a member of a board of a district if that person
- (a) becomes an employee of the district,
 - (b) becomes indebted to the district for more than one year while a member of the board,
 - (c) makes use of specific information gained through that person's position as a member of a board that is not available to the public generally to make a personal profit either directly or indirectly, or
 - (d) misses 3 consecutive meetings of the board without being authorized by resolution of the board to do so.
- (4) Subsection (2) does not prevent a person from becoming a member of the board of a district by reason only that that person
- (a) is a shareholder in a corporation that has a contract with the district
 - (i) unless that person or that person together with that person's spouse, parents, children, brothers and sisters holds more than 25% of the issued capital stock of the corporation, or
 - (ii) unless the contract is for the building, construction or repair of the irrigation works of the district,
 - (b) purchases or leases land from the district,
 - (c) leases or sells to the district land or an interest in land that the district is empowered to expropriate,
 - (d) enters into an agreement under Part 1,
 - (e) sells goods or services to the district or to persons contracting with the district at competitive prices as a dealer in those goods or services incidental to and in the ordinary course of that person's business, or
 - (f) receives payment pursuant to a by-law under section 177(1)(e).

Eligibility of
bodies
corporate

36(1) For the purpose of this section, “body corporate” means a body incorporated or registered under an Act of the Legislature or of the Parliament of Canada.

(2) An officer or director of a body corporate is eligible to become or remain a member of the board of a district if the officer or director meets the conditions set out in section 35(1), (2) and (3) and the body corporate meets the requirements set out in subsection (3).

(3) The body corporate must

- (a) consent in writing to the nomination or election of the officer or director,
- (b) not be indebted to the district for any amount shown on the collector’s roll for more than one calendar year immediately preceding the date of the election,
- (c) be an irrigator of the district,
- (d) be authorized to carry on business in Alberta,
- (e) be an irrigator with irrigation acres in the electoral division if the election of directors is to be or was by electoral division,
- (f) be a body corporate in good standing under the Act under which the body corporate was incorporated or registered, and
- (g) not have
 - (i) commenced liquidation and dissolution proceedings, or
 - (ii) been dissolved.

Declaration of
pecuniary
interest

37(1) When a member of the board of a district has a pecuniary interest in a matter before the board, the member must, if present,

- (a) disclose the general nature of the pecuniary interest prior to any discussion of the matter,
- (b) abstain from voting on any question relating to the matter,
- (c) subject to subsection (2), abstain from any discussion of the matter, and

(d) subject to subsection (2), leave the room in which the board meeting is being held until discussion and voting on the matter are concluded.

(2) If the matter with respect to which the member of the board has a pecuniary interest is a question on which, under this Act or another enactment, the member as an irrigator has a right to be heard by the board,

(a) it is not necessary for the member to leave the room, and

(b) the member may exercise a right to be heard in the same manner as an irrigator who is not a member of the board.

(3) If a member of the board is temporarily absent from a meeting when a matter in which the member has a pecuniary interest arises, the member must immediately on returning to the meeting, or as soon as the member becomes aware that the matter has been considered, disclose the general nature of the member's interest in the matter.

(4) The abstention of a member under subsection (1) and the disclosure of a member's interest under subsection (1) or (3) must be recorded in the minutes of the meeting.

**Demand for
resignation**

38(1) When a majority of the board has reasonable grounds to believe that a member of the board is not qualified to remain as a member by reason of anything in this Act, it may pass a resolution stating the grounds for the disqualification and demanding the resignation of the member concerned.

(2) If the member of the board concerned does not resign or refuses to resign, the board must make an application to the Council within 30 days of the date on which the resolution was passed for a declaration that the member was not or has ceased to be qualified to remain as a member.

(3) Any 2 irrigators of a district may apply to the Council for a declaration that a member of the board was not or has ceased to be qualified to remain as a member.

(4) An application under subsection (3) must be accompanied by a solemn declaration

(a) stating the names and addresses of the applicants, and

(b) stating the grounds for the disqualification.

(5) On hearing the application in accordance with section 171, the Council may

(a) declare the member of the board to be disqualified, or

(b) refuse to make a declaration under clause (a).

(6) If the Council makes a declaration under subsection (5)(a), the member's seat on the board becomes vacant.

(7) If the Council refuses to make a declaration under subsection (5)(b), the member of the board may complete the unexpired portion of that member's term of office.

(8) A person is not eligible to be elected or to remain as a member of the same board until the expiry of 5 years after the date on which that member resigned or was declared disqualified under this section.

Audit

Auditor

39(1) A district must appoint an auditor for the district.

(2) An audit must be conducted by a chartered accountant under the *Chartered Accountants Act*, a certified general accountant under the *Certified General Accountants Act* or a certified management accountant under the *Certified Management Accountants Act*.

(3) No person is eligible to be appointed or to remain as an auditor of a district if that person

(a) is a member of the board or an employee of the district, or

(b) has a pecuniary interest in a contract with the district within the meaning of section 34.

Auditor's
report

40(1) An audit of the annual financial statements must be in accordance with the form and the reporting standards for local governments recommended from time to time by the Canadian Institute of Chartered Accountants.

(2) The auditor conducting an audit must report separately to the board of the district all improper or unauthorized transactions or non-compliance with this or another enactment or a by-law that is noted during the course of the audit and must send a copy of any such report to the Council.

(3) Each district must submit a copy of its financial statements and a copy of the report of the audit to the Council within 4 months after the close of the district's fiscal year.

(4) In addition to the requirements of this section, the audit must include any additional forms, schedules or information requested by the Council.

Auditor
appointed by
Minister

41(1) The Minister may appoint one or more auditors to audit the books and records of a district if the Minister considers the audit to be needed or

- (a) on request of the board of the district,
- (b) on request of not fewer than $\frac{1}{3}$ of the members of the board of the district, or
- (c) on receiving a petition that meets the requirements for a petition under sections 66 to 70 from the irrigators of the district requesting the appointment of an auditor.

(2) The district is liable to the Minister for the costs of an audit under this section.

(3) The auditor must submit the auditor's report to

- (a) the Minister,
- (b) the Council, and
- (c) the district.

Access to
information by
auditors

42(1) An auditor appointed under this Act must have access to the books and records of the district at all reasonable times and for any purpose related to an audit.

(2) A member of the board, the manager, an employee or agent of, or a consultant to, the district must give the auditor any information, reports or explanations the auditor considers necessary.

(3) An auditor who receives information from a person whose right to disclose that information is restricted by law holds that information under the same restrictions respecting disclosure that govern the person from whom the information is obtained.

Fiscal year

43 Unless otherwise provided by by-law, the fiscal year of a district is the calendar year.

Borrowing
by-law

44(1) A district may borrow money if the borrowing is authorized by by-law.

(2) No district may borrow money if the borrowing causes the district to exceed its debt limit as determined by the regulations unless the by-law is approved by the Minister.

Annual Meeting and Report

Annual
meeting

45(1) The district must hold an annual meeting of the irrigators.

(2) The manager must at least 10 clear days before the date fixed for the meeting

- (a) send a notice of the meeting to each irrigator of the district, and
- (b) have a notice of the meeting in the form prescribed in the regulations published in a newspaper of general circulation in the district.

(3) The following reports must be presented at the annual meeting of the irrigators:

- (a) the report of the chair on behalf of the board;
- (b) the report of the manager;
- (c) the report of the auditor of the district;
- (d) an annual maintenance of irrigation works report for the district.

(4) The annual meeting of the irrigators is open to the public.

Annual report
to the Minister

46(1) Each district must prepare and submit an annual report to the Minister containing the following:

- (a) an annual financial statement for the district;
- (b) an annual financial statement for each commercial activity under section 7 carried on by the district;
- (c) a summary of activities undertaken respecting the seepage control plan filed by the district;
- (d) a list of all parcels added to or removed from the district in that year.

(2) An annual report prepared under subsection (1) must be available for review by any person during normal business hours of the office of the district.

General Matters

Public
inspection of
documents

47 The following must be available for inspection by any person during normal business hours of the office of the district:

- (a) the assessment roll, the collector's roll and enforcement returns;
- (b) the current list or description of all parcels included in the district;
- (c) the audited financial statements;
- (d) agreements under this Act between the district and any other person;
- (e) a copy of the seepage control plan;
- (f) minutes of board meetings adopted by the board;
- (g) documents used in any election of directors or vote on a question submitted to the irrigators, other than marked ballots or other material deposited in a ballot box;
- (h) any other document or class of documents designated by the district.

Public
meetings

48 The meetings of a district must be open to the public unless the board holds the meeting or part of the meeting in private because

- (a) of probable prejudice to any member of the board or user, or
- (b) the desirability of disclosure of confidential information respecting a member of the board or user outweighs having the meeting open to the public.

Manager

49(1) A district

- (a) must appoint a person as the manager of the district, and

- (b) may appoint a person as an acting manager of the district to act in the manager's place in the event of the manager's absence or inability to act.
- (2) The manager may, with the consent of the board, delegate any of the manager's duties under this Act to another officer or employee of the district.

Division 2

Irrigation Council and Irrigation Secretariat

Irrigation
Council

- 50(1)** There is hereby established an Irrigation Council consisting of not more than 7 members appointed by the Minister.
- (2) A person appointed as a member of the Council
 - (a) holds office for a term not exceeding 3 years as prescribed in the appointment, and
 - (b) continues to hold office after the expiry of the term of the appointment until that member is reappointed, a successor is appointed or a period of 3 months has expired, whichever first occurs.
- (3) A member of the Council is eligible for reappointment.
- (4) The Minister must
 - (a) designate one of the members of the Council as chair, and
 - (b) fix the remuneration to be paid to members who are not employees of the Government.
- (5) The Council must appoint one of the members of the Council as vice-chair.
- (6) A majority of the members of the Council constitutes a quorum of the Council for the purpose of exercising its powers and performing its duties.
- (7) If the chair is absent from a meeting, the vice-chair must act as chair of the meeting.
- (8) If the chair and vice-chair are both absent from a meeting, the members of the Council present at the meeting must designate a member present to be the chair for that meeting.
- (9) An order, direction, approval or other instrument that the Council is permitted or required to make may be signed on its

behalf by the chair, the vice-chair or any other member of the board authorized by Council.

(10) An order, direction, approval or other instrument purporting to be signed by the chair, the vice-chair or a member of the Council on behalf of the Council must be admitted in evidence as prima facie proof

(a) that the order, direction, approval or other instrument is the act of the Council or of a quorum of the Council, and

(b) that the person signing it was authorized to do so,

without proof of the signature or official character of the person signing the order, direction, approval or other instrument.

(11) The Minister may provide administrative and other support services to the Council.

Powers and
duties of the
Council

51(1) The Council

(a) may make recommendations to the Minister respecting any matter under this Act,

(b) may monitor the operation and financial performance of a district,

(c) must conduct a hearing with respect to a petition when required to do so under Part 4,

(d) must hear applications under section 38(2) or (3),

(e) must hear the appeal of any matter appealed to the Council under Part 8, and

(f) must grant an approval to a district before the district may make an expenditure of money under a cost-sharing agreement between the district and the Government of Alberta.

(2) The Council has, in addition to the powers conferred and duties imposed on it by this or any other Act, the powers conferred and duties imposed on it by the Minister.

(3) The Council has the right of access to all records, books, documents and accounts of each district and may require a district to supply it with any information relevant to the business and affairs of the district.

Irrigation
Secretariat

52(1) There is established an Irrigation Secretariat consisting of one or more employees of the Department designated by the Minister.

(2) The Irrigation Secretariat must carry out the functions and duties assigned by the Council under the direction of the Council.

(3) The chief officer of the Irrigation Secretariat must

- (a) act as secretary to the Council, and
- (b) keep and maintain minutes of Council meetings.

(4) The Irrigation Secretariat is responsible for

- (a) liaising and communicating with the Council, districts, committees and boards and other persons and organizations dealing with matters relating to irrigation districts;
- (b) advising and preparing recommendations respecting irrigation matters for the Council;
- (c) maintaining and compiling records, statistics and data for the Council;
- (d) preparing, publishing and circulating information and material pertaining to irrigation districts;
- (e) assisting and advising the districts on administrative procedures;
- (f) forwarding notices of change of area to the Registrar of Land Titles;
- (g) performing any other work assigned to it by the Council or the Minister.

(5) The chief officer of the Irrigation Secretariat may delegate any of the duties of chief officer under subsection (3) to another officer or employee of the Irrigation Secretariat.

PART 3

ELECTIONS AND GENERAL PETITIONS

Elections

Election

53(1) On a date prescribed by a by-law of the district, an election must be held in each district to elect the number of members to the board of the district as required by section 29.

- (2) A by-law of the district under subsection (1) must
 - (a) set the date of the election to be held prior to June 1 of that year, and
 - (b) be passed at least 3 months before the election.
- (3) The district may have a system of elections to elect
 - (a) a full slate of directors every 3 years, or
 - (b) a partial slate of directors annually.

Election
procedure

54(1) Members must be elected to the board of a district in accordance with this Act, the *Local Authorities Election Act* and the regulations under that Act.

(2) If there is an inconsistency between this Act and the *Local Authorities Election Act* or the regulations under that Act, this Act prevails.

(3) If the *Local Authorities Election Act*, the regulations under that Act, or this Act cannot be applied to an election under this Act, the Minister may make regulations governing the matter.

Returning
officer

55 The manager or acting manager of the district must be the returning officer for an election of the district.

Eligibility to
vote

56(1) For the purpose of this section,

- (a) “body corporate” means a body corporate as defined in section 36(1);
 - (b) “parcel” means land consisting of a quarter section, a part of a quarter section described in a certificate of title or a surveyed lot.
- (2) A person is eligible to vote at an election of the district only if that person is
- (a) an irrigator recorded on the most recent assessment roll of the district as an irrigator of that district, or
 - (b) appointed under a written authorization as an agent for a body corporate that is an irrigator of the district to vote on behalf of the body corporate.
- (3) An irrigator may cast only one vote at an election.

(4) Notwithstanding subsection (3), an irrigator may also cast a vote on behalf of a body corporate if that irrigator is appointed as an agent for the body corporate in accordance with subsection (2)(b).

(5) Where more than one irrigator is the owner of one or more parcels, the number of irrigators who may vote may not exceed the number of parcels.

(6) An irrigator may vote in any voting subdivision of the district or electoral division, as the case may be, if

- (a) the irrigator's name appears on the list of electors for the district or electoral division, or
- (b) that irrigator makes a statement in the form prescribed in the regulations in the presence of an officer at the voting station that the irrigator is eligible to vote as an elector in the district or electoral division.

Electoral
divisions

57(1) A district may pass a by-law providing for

- (a) the division of the district into electoral divisions,
 - (b) a description of the boundaries of each electoral division,
 - (c) the nomination of candidates by electoral divisions,
 - (d) the notice of election to state
 - (i) that the nomination of candidates is by electoral divisions, and
 - (ii) the boundaries of the electoral divisions,
- and
- (e) the election of members of the board
 - (i) by vote of the irrigators who meet the requirements of subsection (3) to vote in the respective electoral divisions, or
 - (ii) by vote of the irrigators of the whole district.

(2) If a district does not pass a by-law under subsection (1), the election is to be by vote of the irrigators of the whole district.

(3) If a by-law under subsection (1) provides for an election by electoral divisions, an irrigator must vote in the electoral division

in which that irrigator has irrigation acres, or if that irrigator has irrigation acres in more than one electoral division, the division in which the irrigator has the largest number of irrigation acres.

(4) A member elected to a board in an electoral division is a member elected for the whole district and may exercise the powers and duties of a member of the board in respect of the whole district.

Nomination of
candidates

58 Nominations of candidates for election must

- (a) be signed by at least 2 irrigators of the district,
- (b) contain a signed statement by the candidate consenting to the nomination, and
- (c) specify the electoral division for which the candidate is nominated if the nomination of candidates is by electoral divisions.

Time for filing
nominations

59 The right to file nominations with the returning officer expires at 4 p.m. 14 days before the date of the election.

Insufficient
nominations

60(1) Notwithstanding section 59, if insufficient nominations have been received at the time the right to file nominations expires, the returning officer may continue to receive nominations in accordance with section 31 of the *Local Authorities Election Act* unless a by-law of the district provides otherwise.

(2) If sufficient nominations to fill all vacancies are not received, the Minister may appoint a person as a member of the board under section 31(1)(a) or (b).

Election by
acclamation

61(1) If the nomination of candidates is not required to be by electoral divisions and the number of persons nominated for the board does not exceed the number of directors required to be elected, the returning officer must declare the persons nominated to be elected as members of the board immediately after the time for receiving nominations has expired.

(2) If the nomination of candidates is not required to be by electoral divisions and the number of candidates exceeds the number of vacancies, there must be an election.

(3) If the nomination of candidates is required to be by electoral divisions and only one person is nominated for any electoral division, the returning officer must declare the person nominated to

be elected as director immediately after the time for receiving nominations has expired.

(4) If 2 or more candidates are nominated for an electoral division there must be an election.

(5) When a returning officer declares a person elected as a member of the board under this section, the returning officer must make a written report of the fact to the district and to the Council.

Prohibited
practices

62(1) No person shall

- (a) without authority supply a ballot to any person,
- (b) fraudulently put into a ballot box any paper other than a ballot that the person is authorized under the by-laws to use,
- (c) fraudulently take a ballot out of the voting station,
- (d) without authority destroy, take, open or otherwise interfere with any ballot box or packet of ballots,
- (e) request a ballot in the name of some other person, whether the name is that of a person living or dead or of a fictitious person,
- (f) having voted once, request a ballot in that person's own name at the same election, or
- (g) attempt to make any other person who has already voted at an election apply for a ballot or vote again at the same election.

(2) No person shall vote at an election knowing that the person has no right to do so.

(3) No person shall make or sign a false statement or oath for any purpose respecting any election or vote under this Act.

(4) No person shall print or distribute or cause to be printed or distributed in any advertisement, handbill, placard, poster, circular, pamphlet, newspaper or other paper a form of ballot printed by the returning officer, indicating or showing it to be marked for any candidate or candidates.

(5) Notwithstanding anything in this section, the returning officer may at any time after the time for filing nominations has expired cause a facsimile of the ballot for "member of a district board" to be published as often as the returning officer considers necessary

in a newspaper of general circulation in the area, for the information of the electors.

Election
results

63 The returning officer must

- (a) post the results of the election in a conspicuous place showing the total number of votes for each candidate, and
- (b) forward the results of the election to the Council.

Recount

64(1) The Council may order a recount and give directions for the conduct of the recount if at any time within 5 days after the date of the transmission of the results of the election to the Council a statutory declaration is made by any person to the returning officer that satisfies the returning officer that

- (a) a deputy returning officer or other officer in counting the votes cast at the election has improperly counted or rejected any ballots, and
- (b) that person's action has materially affected the results of the election.

(2) The returning officer must immediately forward the statutory declaration under subsection (1) to the Council.

Investigation
of alleged
irregularities

65(1) The Council may make, or appoint one or more persons to make, an inquiry if within 2 weeks after the election any 2 persons who were entitled to vote at the election file a statutory declaration with the Council that satisfies the Council

- (a) that the election was irregularly or improperly conducted, or
- (b) that corrupt practices prevailed at the election that materially affected the result of the election.

(2) A person or persons appointed under subsection (1) must report any findings to the district and the Council and may make recommendations to the Council.

(3) A person or persons appointed under subsection (1) have the powers of a commissioner appointed under the *Public Inquiries Act*.

(4) On reviewing a report and any recommendations resulting from an inquiry that relates to an election, the Council must either

- (a) confirm the election of all members of the board previously declared elected, or
- (b) recommend that the Minister dismiss any or all of the members of the board previously declared elected.

General Petitions

Who can petition	66 Only irrigators of a district are eligible to be petitioners.
Numbers of petitioners	67 A petition must be signed by at least 10% of the irrigators of a district.
Petition requirements	<p>68(1) A petition must consist of one or more pages, each of which must contain an identical statement of the purpose of the petition.</p> <p>(2) The petition must include, for each petitioner,</p> <ul style="list-style-type: none"> (a) the printed surname and printed given names or initials of the petitioner, (b) the petitioner's signature, (c) the legal description of the land in the district of which the petitioner is the owner, and (d) the date on which the petitioner signs the petition. <p>(3) An adult person must take an affidavit that to the best of the person's knowledge the signatures on the petition are those of persons entitled to sign the petition.</p> <p>(4) The petition must have attached to it a signed statement of a person stating that</p> <ul style="list-style-type: none"> (a) the person is the representative of the petitioners, and (b) the district may direct any inquiries about the petition to the representative.
Filing of petition	<p>69(1) A petition must be filed with the manager of the district and the manager is responsible for determining if the petition is sufficient.</p> <p>(2) No name may be added to or removed from a petition after it has been filed with the manager of the district.</p>

(3) In counting the number of petitioners on a petition, there must be excluded the name of a person

- (a) whose signature appears on a page of the petition that does not have the same purpose statement that is contained on all the other pages of the petition,
- (b) whose printed name is not included or is incorrect,
- (c) whose legal description of land in the district is not included or is incorrect,
- (d) who is not recorded on the most recent assessment roll of the district as an irrigator of that district, or
- (e) who signed the petition more than 60 days before the date on which the petition was filed with the manager of the district.

Report on
petition

70(1) Within 30 days of the date on which a petition is filed, the manager of the district must make a declaration to the board on whether the petition is sufficient or insufficient.

(2) If the petition is not sufficient, the board is not required to take any notice of it.

Petition
meeting

71(1) If the district receives a sufficient petition and the petition requests that the district call a meeting, the district must hold a meeting with the public to discuss the matters stated in the petition no later than 30 days after the manager declares the petition to be sufficient.

(2) Where the district proposes to hold a meeting under subsection (1), the manager must provide notice of the meeting by publishing the date, time and place of the meeting and the matters to be discussed at the meeting in a newspaper of general circulation in the district at least 7 days prior to the date of the meeting.

(3) After holding a meeting with the public, the district is not bound to do or to abstain from doing any act or thing.

Questions to Users

By-law for
submission of
question to
users

72(1) A district may pass a by-law allowing the district to submit a question to the irrigators or other users of a district for the purpose of obtaining an expression of the opinion of the irrigators or other users respecting any matter within the jurisdiction of the district.

- (2) The vote on a question submitted to the irrigators or other users must be by a vote by mail in the manner set out in the by-laws.
- (3) The manager is the returning officer unless the by-law otherwise provides.
- (4) The returning officer must
 - (a) notify the district of the results of the vote by mail, and
 - (b) publish the results in a newspaper of general circulation in the district.
- (5) The district is not bound by the results of a vote on a question under this section to do or to abstain from doing any act or thing.

PART 4

IRRIGATION DISTRICTS FORMATION, AMALGAMATION, DISSOLUTION AND CHANGE OF AREA

Formation, Amalgamation and Dissolution of Districts

Time of
formation

- 73** For the purposes of section 1(n), the time of the formation of the district must be construed, with reference to existing districts, as
- (a) the effective date of the order under *The I. D. Act* or its predecessors for the formation of the district, in the case of a district formed under that Act or its predecessors,
 - (b) April 23, 1935, in the case of the Eastern Irrigation District,
 - (c) March 24, 1944, in the case of the Western Irrigation District,
 - (d) April 5, 1950, in the case of the St. Mary River Irrigation District, and
 - (e) April 6, 1955, in the case of the Bow River Irrigation District.

Existing districts	74 Except as otherwise provided in this Act, this Act applies to every existing district in every respect to the same extent as if the district were formed under this Act.
Petition for new districts, dissolution, amalgamation	75 An application by petition to the Minister must be made <ul style="list-style-type: none"> (a) for the formation of any part of Alberta not included in a district into an irrigation district, (b) for the dissolution of a district, or (c) for the amalgamation of 2 or more districts.
Signatures on petition	76(1) A petition under section 75(a) must be signed by or on behalf of persons who are registered owners of more than 75% of the land and who make up more than 50% of the total number of registered owners of the land to be included in the district to be formed. <p>(2) A petition under section 75(b) or (c) must be signed by a majority of directors of the board of each of the districts to be dissolved or amalgamated, as the case may be.</p> <p>(3) A petition for the dissolution of a district or the amalgamation of 2 or more districts is valid only if</p> <ul style="list-style-type: none"> (a) a question respecting the proposed dissolution or amalgamation has been submitted to the electors of each district to be dissolved or amalgamated, as the case may be, in the manner set out in section 72, and (b) the majority of the electors voting on the question in each district have voted in favour of the proposed dissolution or amalgamation, as the case may be.
Requirements of petition	77 A petition under section 75 must <ul style="list-style-type: none"> (a) state briefly at the top of each page the purpose for which the petition is made and the reason or reasons for making it, (b) be accompanied by evidence that the stated purpose under clause (a) is feasible, (c) in the case of a petition for the formation of a district, list the parcels to be included and their respective registered owners,

- (d) in the case of a petition for amalgamation or dissolution, name the district or districts to which the petition relates,
- (e) be in the form prescribed in the regulations,
- (f) be accompanied by one or more statutory declarations in the form prescribed in the regulations, and
- (g) set out in its body the name of an agent and the address to which all information may be sent on behalf of all the petitioners.

Powers of
Minister re
petition

78(1) When a petition is made to the Minister under section 75, the petition must be accompanied by proof that the petitioners have, at least 21 days prior to the date the petition is submitted to the Minister, published in a newspaper of general circulation in the district a notice in the form prescribed by the regulations

- (a) setting out the text of the petition, and
- (b) stating that any persons wishing to object to the petition are required to submit a written objection to the Council within 30 days after the date of the publication of the notice.

(2) The Council must forward any written objections it receives to the Minister.

(3) On receipt of a petition, the Minister may,

- (a) if no written objections are received within the 30-day period referred to in subsection (1)(b), grant the petition and make an order accordingly,
- (b) refer the petition back to the petitioners
 - (i) for further evidence that the stated purpose of the petition is feasible,
 - (ii) for further particulars relating to the petition, or
 - (iii) with a request that the petition be amended,
- (c) refuse the petition if the Minister is satisfied that the requirements of this section have not been complied with, or
- (d) direct that a hearing be held before the Council under Part 8 with respect to the petition.

(4) The Minister must refer the petition to the Council for a hearing under Part 8 if one or more written objections are submitted to the Council within the time period referred to in subsection (1)(b).

(5) On receipt of a petition which has been referred back to the petitioners by the Minister pursuant to subsection (3)(b), the petitioners may resubmit the petition after complying with the request of the Minister.

(6) If the petitioners fail to resubmit a petition within one year of the date on which it was referred back to them by the Minister, the petition is deemed to be withdrawn.

(7) On reviewing the recommendation of the Council under Part 8, the Minister may grant the petition and make an order accordingly or refuse the petition.

Order granting
petition

79(1) When the Minister makes an order granting a petition for the formation of a new district, the dissolution of a district or the amalgamation of 2 or more districts, the order may provide for the following:

- (a) in the case of the formation of a new district,
 - (i) the name of the district,
 - (ii) the address of the head office of the board of the district,
 - (iii) a description of the parcels constituting the district,
 - (iv) the name and address of the owner of each parcel, and
 - (v) the date on which the order becomes effective;
- (b) in the case of the dissolution of a district,
 - (i) the imposition of charges necessary for the purpose of financing the winding-up of the district,
 - (ii) the disposal of assets and the distribution of the proceeds from those assets,
 - (iii) the settlement of liabilities,
 - (iv) the collection of charges, and

- (v) the interim administration of the affairs of the district;
- (c) in the case of the amalgamation of 2 or more districts
 - (i) the name of the district,
 - (ii) the manner of proceeding with the amalgamation,
 - (iii) the address of the head office of the board of the district,
 - (iv) a description of the parcels constituting the district,
 - (v) the name and address of the owner of each parcel,
 - (vi) the manner of dealing with outstanding debts of the amalgamating districts, and
 - (vii) the date on which the order becomes effective.

(2) In addition to the matters provided for under subsection (1), the Minister may provide for the division or apportionment of any rights, property, obligations or liabilities affected as the Minister considers proper.

Dissolution of district

80(1) Except when an order of the Minister for the dissolution of a district expressly provides otherwise,

- (a) the district continues to exist for the purpose of the dissolution and winding-up of its affairs,
- (b) the district becomes trustee for its creditors,
- (c) the district must impose, collect and enforce payment of charges sufficient to pay all the debts of the district in the same manner and on the same persons and property as in the case of irrigation charges, and
- (d) if there is a balance remaining after the discharge of all liabilities incurred under lawful authority and all of the costs of and incidental to the dissolution, the district must pay over the balance to the persons declared to be entitled to it by an order of the Minister made on the petition of the district.

(2) When the Minister is satisfied that the provisions of this Act and the order for dissolution of the district have been complied with, the Minister must grant an order of release to the district.

Dissolution
and
amalgamation
by Minister

81(1) The Minister may by order amalgamate 2 or more districts if the Minister believes that the operation of the district to be formed by the amalgamation will be more effective or efficient than that of the districts to be amalgamated.

(2) Before the Minister makes an order under subsection (1), the Minister

- (a) must give written notice of the proposed amalgamation to the districts,
- (b) may invite comments on the proposed amalgamation from the irrigators, other users and any other person the Minister considers necessary, and
- (c) may conduct one or more meetings with the public to discuss the probable effects of the proposed amalgamation.

(3) Notwithstanding anything in this Part, the Minister may by order dissolve a district where

- (a) the district has not filed an annual report with the Minister for a period of 2 consecutive years, or
- (b) the annual report of the district shows that the district has had no irrigation acres for a period of 2 consecutive years.

Correction of
errors

82 Any misnomer, misdescription, omission or error in an order under the *Irrigation Act* continued as an order of the Minister under section 199 of this Act or in an order of the Minister made under this Part may be corrected by subsequent order, and the correcting orders may be made effective as of the date of the original order or some other earlier date that is specified in the order.

Registration
and
publication of
order

83 If the Minister makes an order under this Part, a certified copy of the order must be

- (a) forwarded to the Registrar of Land Titles for the purposes of registration under section 23 of the *Land Titles Act*, and
- (b) published in The Alberta Gazette.

Change of District Area

Application for
change of
area of
districts

84(1) In this section and sections 85 to 89, “change of area” means the addition of a parcel to or the removal of a parcel from the district.

(2) An owner may make an application to a district for a change of area.

(3) An application under subsection (2) must be in the form and contain the matters prescribed by the regulations.

(4) In the case of an application for the addition of a parcel to the district under subsection (2), a district may refuse to accept the application if

- (a) in the opinion of the district, it is impractical, uneconomical or undesirable to deliver water to the parcel that is the subject-matter of the application,
- (b) the expansion limit for the district may be exceeded, or
- (c) the owner does not agree to pay the amount specified by the district, if any, that the district may impose as a capital construction charge under section 126.

(5) The district must give notice of its refusal under subsection (4) to the applicant within 60 days of receipt of the application.

Approval
procedures

85(1) Except where section 84(4) and (5) apply, the district must, within 60 days of receipt of an application under section 84, publish in a newspaper of general circulation in the district a notice in the form and manner provided for in the regulations

- (a) setting out a summary of the application, and
- (b) stating that any persons wishing to complain are required to submit a written complaint to the district within 30 days after the date of the publication of the notice.

(2) The district must within 90 days of receipt of an application

- (a) approve the application for the change of area by a resolution of the board,
- (b) refer the application back to the applicant
 - (i) for further particulars relating to the application, or
 - (ii) with a request that the application be amended,

or

(c) refuse the application.

(3) On receipt of an application that has been referred back to the applicant by the district pursuant to subsection (2)(b), the applicant may resubmit the application after complying with the request of the district.

(4) If the applicant fails to resubmit an application within one year of the date on which it was referred back to the applicant by the district, the application is deemed to be withdrawn.

(5) The district must consider all written complaints that are received within the 30-day period referred to in subsection (1)(b) before refusing or approving an application.

(6) If the district approves an application for a change of area, the district must

(a) give written notice of the decision within 30 days of the decision to

(i) the applicant, and

(ii) any person filing a written complaint under subsection (1)(b),

(b) if a parcel is added to the district, assess the parcel in accordance with section 95 and amend the assessment roll to add irrigation acres, and

(c) if a parcel is removed from the district, amend the assessment roll to delete the parcel in accordance with section 98(1).

(7) If the district refuses an application for a change of area, the district must give written notice of the decision within 30 days of the decision to

(a) the applicant, and

(b) any person filing a written complaint under subsection (1)(b).

(8) A written notice under subsection (6)(a) or (7) must contain a statement of the right to appeal to Council under section 167(1)(b)(i).

District-owned
land

86(1) Where the district is the owner of land and the district proposes to make a change of area, the district must publish in a newspaper of general circulation in the district a notice in the form and manner provided for in the regulations

- (a) setting out the particulars of the change of area, and
- (b) stating that any persons wishing to complain are required to submit a written complaint to the district within 30 days after the date of the publication of the notice.

(2) The district must consider all written complaints that are received within the 30-day period referred to in subsection (1)(b) before making a decision respecting the change of area.

(3) If the district decides to make the change of area, the district must give written notice of the decision within 30 days of the decision to any person filing a written complaint under subsection (1)(b).

(4) A written notice under subsection (3) must contain a statement of the right to appeal to Council under section 167(1)(b)(i).

Removal by
district

87(1) A district may remove a parcel with irrigation acres from the district if, in the opinion of the district, it is impractical, uneconomical or undesirable to continue to deliver water to that parcel.

(2) The district must give written notice to the irrigator specifying the date the district will stop the delivery of water to the parcel at least one year before the date specified in the notice.

(3) A written notice under subsection (2) must contain a statement of the right to appeal to Council under section 167(1)(a).

(4) Subject to a decision of the Council under Part 8, the district

- (a) may terminate the delivery of water to the parcel after the expiry of the date specified in the written notice under subsection (2),
- (b) must give the owner written notice that the delivery of water to the parcel has been terminated, and
- (c) must delete the irrigation acres from the assessment roll and remove the parcel from the district.

(5) If the district removes the parcel from the district under subsection (4)(c), it must give the irrigator written notice that the parcel has been removed from the district.

(6) Irrigation charges do not apply to the parcel after the date of the written notice under subsection (4)(b).

(7) An irrigator receiving a written notice under subsection (2) may enter into an agreement with the district for compensation respecting the parcel.

(8) Where the irrigator and the district are unable to reach an agreement under subsection (7), the owner may refer the matter of compensation to the Land Compensation Board within 60 days of the date that a written notice under subsection (5) is received by the owner.

(9) The Land Compensation Board may order the district to pay compensation to the owner for the parcel in an amount based on the difference between the market value of the land and improvements with irrigation acres and the market value of the land and improvements once irrigation acres are deleted from the assessment roll and the parcel is removed from the district.

(10) A compensation order under subsection (9) may not include compensation for loss of future earnings that would have been gained by carrying on an activity on the parcel.

(11) Compensation ordered under subsection (9) must be reduced by any amount received by the owner as a result of a transfer of irrigation acres under section 26.

(12) An appeal lies to the Court of Appeal in respect of the amount of compensation determined by the Land Compensation Board under subsection (9)

(a) when the amount is determined as \$10 000 or more, or

(b) in any other case, with leave of a judge of the Court of Appeal.

(13) No person may, in proceedings before the Land Compensation Board or the Court of Appeal, dispute the right of the district to remove a parcel from the district in accordance with this section.

Registration
and
publication of
notice

88(1) If a district adds a parcel to or removes a parcel from the district in accordance with this Act, the district must forward a notice to the Irrigation Secretariat in the form and containing the matters prescribed by the regulations.

(2) On receiving a notice under subsection (1) from the district, the Irrigation Secretariat must

- (a) forward a certified copy of the notice to the Registrar of Land Titles for the purposes of registration under section 23 of the *Land Titles Act*, and
- (b) publish the notice in The Alberta Gazette.

Effect of
change of
area

- 89** A change in area of a district does not
- (a) impair or affect its formation, the right of the district in or to property, or any other rights or privileges of the district, or
 - (b) affect, impair or discharge any contract, obligation, lien or charge under which the district is liable or would become liable had the change of area not been made.

PART 5

ASSESSMENT

Definitions

- 90** In this Part,
- (a) “assessment notice” means a notice given pursuant to section 105;
 - (b) “assessment review board” means a board of a district acting as an assessment review board under this Part.

Assessment Roll

Assessment
roll of district

- 91(1)** The assessment roll of a district continues to be the assessment roll of that district until it is replaced by a new assessment roll under this Part.
- (2)** The manager must maintain the assessment roll of the district in accordance with section 100.

New
assessment
roll

- 92(1)** The manager must prepare a new assessment roll for the district
- (a) after a new district has been formed under this Act,
 - (b) when the board of a district authorizes by resolution the preparation of a new assessment roll, or
 - (c) when the Minister directs the board of a district to prepare a new assessment roll.

(2) A new assessment roll must be prepared in accordance with this Part.

(3) If the assessment roll has been lost or destroyed, the board may use any material or information available to the manager as the assessment roll or collector's roll or both until a new assessment roll is prepared.

Contents of
assessment
roll

93 The assessment roll must

- (a) include a list of all parcels that
 - (i) contain irrigation acres, and
 - (ii) contain acres subject to a terminable agreement or an annual agreement,
- and
- (b) set out for each parcel
 - (i) the legal description,
 - (ii) the name and address of the owner,
 - (iii) the number of irrigation acres, and
 - (iv) the number of acres subject to an agreement referred to in clause (a)(ii).

Land
classification
standards and
assessment
criteria

94 The Minister must establish by regulation

- (a) land classification standards to be used by each district to classify land according to its suitability for irrigation purposes, and
- (b) land assessment criteria to be used in an assessment under section 95.

Assessment of
land

95(1) If an assessment is required under this Act, the manager must assess the parcel for the purpose of determining whether to recommend to the district that an amendment be made to the assessment roll to add

- (a) irrigation acres, or
- (b) acres subject to a terminable agreement or an annual agreement.

(2) An assessment under subsection (1) must take into account the following:

- (a) the classification of the land in accordance with the land classification standards referred to in section 94(a);
- (b) whether the land meets the land assessment criteria referred to in section 94(b);
- (c) whether the district is able to deliver sufficient quantities of water through the irrigation works of the district;
- (d) whether there is drainage available from that land, if required;
- (e) whether the expansion limit of the district would be exceeded;
- (f) any other factors that may make it impractical or uneconomical to irrigate the land.

Application to
add irrigation
acres

96(1) An owner of a parcel in a district may apply to the district to add irrigation acres to the assessment roll.

(2) A purchaser must have the consent of the registered owner to make an application under subsection (1).

(3) When an application under subsection (1) is received by the district, the parcel must be assessed in accordance with section 95(2).

(4) If the district is satisfied that the requirements of section 95(2) have been met, the manager must amend the assessment roll to add the irrigation acres.

(5) If the district is not satisfied that the requirements of section 95(2) have been met, the district

- (a) may refuse to grant an application under subsection (1), and
- (b) must give written notice to the applicant of its decision within 60 days of receipt of the application.

(6) A written notice under subsection (5)(b) must contain a statement of the right to appeal to the Council under section 167(1)(b)(iv).

Application to
delete
irrigation acres

97(1) An owner may request the district to delete irrigation acres from the assessment roll.

(2) If a request is made under subsection (1), the assessment roll may be amended to delete the irrigation acres.

(3) If irrigation acres are deleted from the assessment roll, the district may refund all or part of the current irrigation charges and capital charges paid by the irrigator.

Deletion and
removal of
parcel

98(1) A parcel must be deleted from the assessment roll when

(a) the parcel is removed from the district in accordance with Part 4, or

(b) the parcel no longer contains any irrigation acres or acres subject to a terminable agreement or annual agreement.

(2) If by operation of this Act a parcel no longer contains any irrigation acres, the district

(a) may remove the parcel from the district, and

(b) if the parcel is removed from the district under clause (a), must notify the Irrigation Secretariat in accordance with section 88.

Maps and
plans

99(1) The manager must have maps and plans prepared for all the parcels on the assessment roll, showing for each parcel

(a) the land classified in accordance with the land classification standards referred to in section 94(a),

(b) the irrigation acres,

(c) acres subject to terminable agreements, and

(d) the point of delivery.

(2) Maps and plans prepared in accordance with subsection (1) must be used when an assessment is required by this Act and retained as part of the records of the district.

(3) The manager may revise maps and plans prepared under subsection (1) from time to time.

Effect of
change of
owner

100(1) When a person becomes an owner of a parcel shown on the assessment roll of the district, that person must notify the manager of that fact and produce such proof of ownership or interest as the manager requires.

(2) On being notified under subsection (1), the manager must amend the assessment roll to show the name and address of the new owner.

(3) When the manager is aware, on the basis of a search of the records of the land titles office, that a person has become an owner of a parcel shown on the assessment roll of the district, the manager must amend the assessment roll to show the name and address of the new owner.

Assessment
roll as
evidence

101(1) The assessment roll constitutes notice to all persons of

- (a) the parcels described on the assessment roll,
- (b) the number of acres in any parcel that are irrigation acres, and
- (c) the number of acres in any parcel that are subject to a terminable agreement or an annual agreement.

(2) The assessment roll must remain in the office of the district except when it is required before the assessment review board, before the Council or by the auditor of the district.

Validity of
assessment

102 No assessment is invalid by reason of an error, omission or misdescription in an assessment notice or billing notice, or because either notice was not received by the person to whom it was sent.

Amendment of
assessment
roll

103(1) The manager must amend the assessment roll after

- (a) the assessment review board makes a decision on a complaint,
- (b) an assessment under this Act results in a change to the number of irrigation acres or acres subject to a terminable agreement or annual agreement, or
- (c) a decision of the Council where the Council confirms, varies or rescinds a decision of the assessment review board under section 172(1)(a).

(2) The manager must date and initial each amendment.

Correction of errors and omissions

104(1) The manager may correct an error, omission or misdescription in the assessment roll.

(2) A correction under subsection (1) constitutes an amendment of the assessment roll for the purposes of section 105.

Assessment notice

105 If the manager amends the assessment roll under this Act, the manager must send written notice of the amendment within 30 days of the date of the amendment to the owner of the parcel affected by the amendment.

Assessment Review Board

Board is assessment review board

106(1) The board of a district constitutes an assessment review board for the hearing and determination of complaints by persons with respect to anything contained on the assessment roll.

(2) No member of the board may be a member of an assessment review board with respect to any parcel in which that member is directly or indirectly interested.

(3) The manager is the secretary of the assessment review board and must record its proceedings.

Complaints re assessment roll

107(1) On receipt of a billing notice, a person whose name appears on the billing notice may complain to the assessment review board in respect of anything appearing on the assessment roll.

(2) The notice of complaint must

(a) contain the grounds for the complaint, and

(b) be filed with the assessment review board by sending it to the manager or leaving it at the office of the district prior to the date set out in the billing notice for filing complaints.

(3) A notice of complaint must contain an address for service for all notices that are required to be sent to the complainant.

Notice of hearing by assessment review board

108 On receipt of a complaint, the manager must, at least 14 days in advance of the date set for the hearing of the complaint, give notice to the board of the district, the complainant, the owner of the parcel receiving the billing notice and any person listed on the

notice of complaint that is affected by the complaint of the time and place that the assessment review board will hear the complaint.

List of
complaints

109(1) The manager must prepare and post a list of the complaints in the form and manner provided for in the regulations before the assessment review board hears the complaints.

(2) Subject to the adjournment of any complaints, the assessment review board must hear the complaints in the order they appear on the list.

Absence of
complainant

110 If the complainant or any other person notified of the hearing under section 108 fails to appear in person or by an agent, the assessment review board may proceed in that person's absence.

Evidence
under oath

111(1) Any member of the assessment review board hearing a complaint may administer oaths to witnesses giving evidence before the assessment review board.

(2) The assessment review board may require a person giving evidence before it to do so under oath.

Time limit

112(1) An assessment review board must complete its hearing of a complaint and make a decision within 60 days after the date fixed for the hearing of the complaint.

(2) Notwithstanding subsection (1), the assessment review board may grant an adjournment of up to 45 days, and the time limit prescribed in subsection (1) does not run during the period of adjournment.

Decisions of
assessment
review board
and notice

113(1) An assessment review board may

- (a) dismiss a complaint that was not made within the proper time,
- (b) make a change to the assessment roll respecting the matter that was the subject of the complaint, or
- (c) decide that no change to the assessment roll is required.

(2) The assessment review board must direct the manager to notify each person to whom a notice of hearing was given under section 108 of its decision under subsection (1).

(3) A notice under subsection (2) must contain a statement of the right to appeal to the Council under section 167(1)(d).

(4) Notwithstanding section 167(1)(d), if the assessment review board dismisses a complaint that was not made within the proper time, there is no further right of appeal to the Council.

PART 6

FEES, CHARGES, COLLECTION AND ENFORCEMENT

Definitions

114 In this Part,

- (a) “adjudication” means an enforcement return confirmed by the Court of Queen’s Bench under this Part;
- (b) “charge” means a charge for each parcel, including
 - (i) a capital charge,
 - (ii) an irrigation charge, and
 - (iii) a terminable agreement charge,and includes surcharges;
- (c) “fee” means
 - (i) an annual agreement fee,
 - (ii) a household purposes fee,
 - (iii) a use of irrigation works fee, and
 - (iv) a water conveyance fee;
- (d) “rate” means a rate charged for each acre and includes
 - (i) an annual agreement rate,
 - (ii) an irrigation rate, and
 - (iii) a terminable agreement rate.

Fees

Agreement fee by-laws

115(1) Each district may make fee by-laws to apply to household purposes agreements, use of irrigation works agreements and water conveyance agreements.

(2) By-laws under subsection (1) must establish the fees on a fair and equitable basis.

(3) The district must provide notice of a fee by-law to every person who is a party to an agreement referred to in subsection (1) by serving written notice of the by-law at the same time as a billing notice under section 130.

(4) A written notice under subsection (3) must contain a statement of the right to appeal to the Council under section 167(1)(e).

(5) Notwithstanding subsection (2), a fee by-law may establish different fees for individual household purposes agreements, use of irrigation works agreements or water conveyance agreements.

Annual agreement fee

116(1) The amount of an annual agreement fee in respect of a parcel is calculated by multiplying the number of acres subject to an annual agreement in the parcel by the annual agreement rate imposed by a by-law under section 118.

(2) The district must provide notice of the annual agreement fee to every person who is party to an annual agreement by serving written notice of the by-law at the same time as a billing notice under section 130.

(3) A written notice under subsection (2) must contain

- (a) the date of the notice,
- (b) a legal description of the parcel,
- (c) the number of acres subject to an annual agreement included on the assessment roll,
- (d) the annual agreement rate,
- (e) the total amount of annual agreement fees payable to the district, and
- (f) a statement demanding payment of the amount shown as payable to the district in the notice before or on the date specified in the notice.

(4) If the person receiving a notice under this section fails to pay the amount shown on the notice, the amount shown on the notice may be recovered as a debt due to the district by action by the district within 30 days of the date provided in the notice for the payment of that amount.

Rates and Charges

Adoption and
contents of
operating
budget

117(1) Each district must adopt an operating budget not later than June 1 in each year.

(2) An operating budget must include the estimated amount of each of the following expenditures:

- (a) the amount needed to meet the costs of administering the business and affairs of the district, including the costs of maintaining and operating the irrigation works of the district and obtaining supplies of water;
- (b) the amount needed to pay the district's share of the unpaid costs of constructing, rebuilding, replacing or rehabilitating its existing irrigation works and the costs of constructing additional irrigation works not provided for under a cost-sharing agreement;
- (c) the amount needed to pay for any principal and interest that is or will be payable by the district
 - (i) under a cost-sharing agreement, or
 - (ii) for any loans;
- (d) an amount determined by the district to be placed into a reserve fund for any purposes that the district prescribes;
- (e) any amount needed to pay for any outstanding writs of enforcement against the district;
- (f) any amount payable under an order of the Land Compensation Board under this Act;
- (g) the amount needed to provide for the cost of collection of unpaid charges;
- (h) an amount needed to pay for any other expenditures that are or will likely be payable by the district to meet its obligations and liabilities.

(3) An operating budget must include the estimated amount of each of the following sources of revenue:

- (a) irrigation charges;
- (b) terminable agreement charges;
- (c) surcharges;
- (d) capital charges;
- (e) annual agreement fees;
- (f) household purposes fees;
- (g) use of irrigation works fees;
- (h) water conveyance fees;
- (i) any amount to be withdrawn from a reserve fund;
- (j) any other source of operating revenue.

(4) The estimated revenue under subsection (3) must be at least sufficient to pay the estimated expenditures under subsection (2).

Rate by-law

118(1) Every district must make a rate by-law each year.

(2) The rate by-law must specify an annual agreement rate, an irrigation rate and a terminable agreement rate per acre applicable for all parcels in a district that have

- (a) irrigation acres, or
- (b) acres subject to a terminable agreement or an annual agreement.

(3) Notwithstanding subsection (2), the rate by-law may provide for the division of the district into 2 or more parts and may provide for different rates per acre in each part.

Calculating rates

119(1) The irrigation rate is calculated by dividing the total estimate of irrigation charges under section 117(3)(a) by the total number of irrigation acres.

(2) The terminable agreement rate is calculated by dividing the total estimate of terminable agreement charges under section 117(3)(b) by the total number of acres on the assessment roll subject to a terminable agreement.

(3) The annual agreement rate is calculated by dividing the total estimate of annual agreement fees under section 117(3)(e) by the

total number of acres on the assessment roll subject to an annual agreement.

(4) A by-law under section 118 applies only for the purpose of calculating the irrigation charge, terminable agreement charge or annual agreement fee for the year in which the by-law is passed.

Calculation of charges

120(1) The amount of an irrigation charge to be imposed in respect of a parcel is calculated by multiplying the number of irrigation acres in the parcel by the irrigation rate imposed under the rate by-law under section 118.

(2) The amount of a terminable agreement charge to be imposed in respect of a parcel is calculated by multiplying the number of acres in the parcel subject to a terminable agreement by the terminable agreement rate imposed under the rate by-law under section 118.

Minimum amount in lieu of irrigation charge

121 Notwithstanding anything in this Part, the rate by-law under section 118 as it applies to the irrigation rate may specify a minimum amount payable as an irrigation charge for each parcel instead of a charge calculated under section 120(1).

Surcharge

122(1) The rate by-law under section 118 may, in addition, specify a surcharge based on any or all of the following:

- (a) the volume of water used per acre;
- (b) the volume of water used per acre in excess of the volume prescribed in the by-law;
- (c) the water pressure supplied to the irrigator from the irrigation works of the district;
- (d) the type of infrastructure used to deliver water to the irrigator.

(2) The total amount of surcharges imposed by a by-law under section 118 must be at least equal to the total estimate of surcharge revenue under section 117(3)(c).

Charge on land

123 On the passing of a rate by-law under section 118, the whole of each parcel in the district is charged with the payment to the district of an amount equal to

- (a) the number of acres in the parcel assessed as irrigation acres multiplied by the irrigation rate for the parcel plus any surcharges specified in the rate by-law, or the

minimum amount payable as an irrigation charge under the irrigation rate by-law under section 121, as the case may be, and

- (b) the number of acres in the parcel subject to a terminable agreement multiplied by the terminable agreement rate for the parcel plus any surcharges specified in the rate by-law.

Time of billing
notice

124 No billing notices may be delivered or transmitted until the district passes the by-laws specified under section 118.

Capital assets
charge by-law

125(1) A district may pass a by-law imposing a capital assets charge respecting parcels that have irrigation acres added to the assessment roll.

(2) A by-law imposing a capital assets charge must set out the rate imposed per irrigation acre.

(3) On the passing of a capital assets charge by-law, the whole of each parcel in which the acres referred to in subsection (1) are located is charged with the payment to the district of the amount equal to the total capital assets charge imposed on that parcel.

Capital
construction
charge by-law

126(1) A district may pass a by-law imposing a capital construction charge on a parcel that is added to the district in accordance with Part 4 if irrigation works are constructed to supply water to that particular parcel and not to supply water to the district as a whole.

(2) The capital construction charge may be equal to or be a portion of the total cost of constructing irrigation works on that parcel.

(3) A by-law imposing a capital construction charge must set out the amount applicable to the parcel.

(4) On the passing of a capital construction charge by-law, the parcel in the district subject to the by-law is charged with the payment to the district of the amount equal to the total capital construction charge imposed on that parcel.

Priorities

127 Unpaid charges have priority over all claims, liens, mortgages, charges or encumbrances on the parcel concerned except those enforceable by the Crown and first mortgages.

Collection of Charges

Collector's roll	<p>128(1) The manager must prepare and maintain a roll called the "collector's roll" in accordance with this section.</p> <p>(2) The collector's roll may be combined with the assessment roll.</p> <p>(3) Each year immediately after the district has passed any by-laws made under sections 118, 125 and 126, the manager must prepare a new collector's roll or revise the existing collector's roll in order to show, with respect to each parcel included on the assessment roll,</p> <ul style="list-style-type: none">(a) the name of each person whose name appears on the assessment roll as the owner or lessee of the parcel, and(b) the amounts payable to the district as<ul style="list-style-type: none">(i) irrigation charges,(ii) terminable agreement charges,(iii) surcharges,(iv) capital charges,(v) penalties charged pursuant to a by-law of the district, and(vi) any amounts in subclauses (i) to (v) remaining unpaid from previous years. <p>(4) Notwithstanding anything in this Part, when it appears to the district that the payment of all or part of the amounts shown as owing on the collector's roll by any person has resulted or is likely to result in hardship or injustice to the person who owes the amounts to the district, the district by resolution may cancel or refund all or any part of the amounts owing or paid.</p> <p>(5) The report of the chair of the board to the annual meeting of the irrigators must contain a copy of each resolution of the board made under subsection (4) in the previous fiscal year and the reasons for making it.</p>
Effect of entry on collector's roll	<p>129(1) The entry on the collector's roll pursuant to section 128 of amounts owing to the district in respect of a parcel constitutes notice to all persons that the parcel is charged with the payment of those amounts.</p>

(2) All amounts shown on the collector's roll as owing to the district in respect of a parcel are deemed to be unpaid irrigation charges within the meaning of section 65(1)(b) of the *Land Titles Act*.

Billing notices **130(1)** On completing the collector's roll, the manager must serve a billing notice to each person whose name appears on the collector's roll in the form provided for by the regulations showing the amounts owed by those persons to the district according to the collector's roll.

(2) A billing notice with respect to a parcel on the assessment roll must set out

- (a) the billing date,
- (b) a legal description of the parcel,
- (c) the number of irrigation acres and acres subject to a terminable agreement included on the assessment roll, as the case may be,
- (d) the irrigation rate and terminable agreement rate, as the case may be,
- (e) the total amount of irrigation charges and terminable charges payable to the district, and
- (f) the amount of capital charges, if applicable, payable to the district.

(3) Each billing notice must

- (a) demand payment for the amounts shown as payable to the district in the billing notice,
- (b) state that the amounts payable are required to be paid before or on the date specified in the notice,
- (c) set out the discounts allowable on payments and the dates on which the rights to the discounts expire,
- (d) set out the penalties chargeable for non-payment of the amounts owing and the dates on which the penalties are to be charged, and
- (e) contain a statement of the right to complain to the assessment review board under section 107 and the date by which a complaint must be received.

(4) The manager must enter on the collector's roll opposite the name of each person in it the date the billing notice was sent and the method used to send the notice, and the entry is proof that the notice was sent to that person.

Discounts

131(1) The district may pass a by-law providing for the allowance of discounts in accordance with this section on payments for charges when the payment is made in the year in which those charges are imposed.

(2) When any amount is paid to the district in partial payment of the total amount shown as owing on the collector's roll, the amount paid must be applied toward the payment of the amounts shown as owing on the collector's roll in the following order:

- (a) on the amounts shown unpaid on the collector's roll as of the previous December 31;
- (b) toward the payment of any penalties charged since the previous December 31;
- (c) toward the payment of current irrigation charges;
- (d) toward the payment of current terminable agreement charges;
- (e) toward the payment of current surcharges;
- (f) toward the payment of current capital charges.

(3) No discount may be allowed under the by-law in respect of the amount of a payment applied toward the payment of the amounts referred to in subsection (2)(a) and (b).

Penalty on
arrears

132(1) If an amount shown on the collector's roll or any part of it has not been paid at the close of business of a calendar year, the district may by by-law provide that an amount not exceeding the percentage prescribed in the by-law of the amount unpaid must be added to the collector's roll as a penalty on the next succeeding January 1 and every 6 months afterwards for so long as any part of the amount remains unpaid.

(2) Any penalty imposed under a by-law under this section must be added to the collector's roll.

(3) Nothing in this section may be construed to extend the time for payment of the amounts shown on the collector's roll or in any way to impair any other remedy provided by this Act for the collection of those amounts.

Entry of and
receipt for
payment

133 The manager must

- (a) enter in the appropriate place on the collector's roll all amounts paid with the date of receipt of payment, and
- (b) issue an official receipt for each payment.

Recovery of Charges

Action for
arrears

134(1) The amount shown on a billing notice may be recovered as a debt due to the district by action by the district within 30 days of the date

- (a) provided in the billing notice for the payment of that amount if the person receiving the billing notice fails to pay the amount shown on the billing notice,
 - (b) of the decision of the assessment review board to dismiss a complaint under section 113 if the person receiving the billing notice fails to pay the amount shown on the billing notice, or
 - (c) of the decision of the Council under section 172(1)(a) to confirm the decision of the assessment review board if the person receiving the billing notice fails to pay the amount shown on the billing notice.
- (2) Subsection (1) does not apply where proceedings resulting from a notice of complaint under section 107 or an appeal under section 167(1)(d) are ongoing respecting the billing notice.
- (3) In any action under this section, the collector's roll is prima facie proof of the debt.

Recovery of
charges

135 Unpaid charges may be recovered in the same manner as irrigation charges, and the provisions of this Part providing for the recovery of irrigation charges apply, with all necessary modifications, to the recovery of charges.

Recovery of
charges from
purchaser

136 When the registered owner of land has sold land to a purchaser and the registered owner subsequently pays all or part of the charges that are a charge on the land, the registered owner may recover the amount paid from the purchaser or, if there are intermediate purchasers, the purchaser entitled to possession, as if there were an express covenant with the registered owner to that effect.

Enforcement

Enforcement
return

137(1) The manager of each district must prepare before March 1 in each year a separate record or records known as the "enforcement return".

(2) The enforcement return may refer only to parcels with respect to which

(a) billing notices have been served in accordance with section 130, and

(b) there are amounts owing on the billing notices that have not been paid in full by December 31 of the year following the year in which the billing notices were served.

(3) The enforcement return must contain, with respect to each of the parcels referred to in subsection (2),

(a) the legal description of the parcel,

(b) the name and mailing address of each person whose name appears on the assessment roll as the owner of the parcel, and

(c) a statement showing

(i) the total amount shown as owing in the billing notice referred to in subsection (2)(b),

(ii) the amount paid, and

(iii) the balance of that amount remaining unpaid and any penalties subsequently incurred with respect to the non-payment of the amount unpaid.

(4) The enforcement return is for all purposes prima facie proof of the indebtedness to the district of the amounts shown in the enforcement return as unpaid.

Application to
confirm
enforcement
return

138(1) The district must, not later than the next May 31 following preparation of the enforcement return, apply to the Court of Queen's Bench for confirmation of the enforcement return, and a notice of the time and place fixed for hearing the application must be published in any 2 issues of The Alberta Gazette before the day fixed for the hearing.

(2) The application must be made in any judicial district in which the irrigation district is wholly or partly situated.

Notice of
hearing re
enforcement
return

139(1) The manager must send a notice by registered mail of the time and place fixed for hearing the application for confirmation of the enforcement return at least 20 days before the time fixed to each person

- (a) who appears, by the records of the district and of the Registrar of Land Titles, to have an interest in a parcel shown in the enforcement return, and
- (b) whose mailing address is shown on the records under clause (a) or the enforcement return.

(2) The manager must enter against each parcel shown in the enforcement return the date of the mailing of the notice and must sign or initial each entry.

(3) The entry against the parcels shown in the enforcement return of the date of the mailing of the notice together with the signature or initials of the manager is prima facie proof that the required notice was sent by registered mail by the manager on the date so entered without proof of the signature or initials or official character of the person signing the enforcement return.

(4) The notice referred to in subsection (1) must be in the form prescribed by the regulations.

Payment
before
adjudication

140 The manager must remove the parcel from the enforcement return if at any time prior to the adjudication any person pays with respect to the parcel

- (a) the amount owing to the district as shown on the enforcement return,
- (b) any interest or penalties incurred with respect to the amount owing, and
- (c) any disbursements incurred by the district in connection with its proceedings respecting the enforcement return.

Hearing of
enforcement
return

141(1) At the time and place fixed for hearing an application, the Court of Queen's Bench must

- (a) hear the application and also any objecting parties and the evidence adduced before it,
- (b) determine whether or not the amounts shown as owing in the enforcement return in respect of each parcel included

in the enforcement return are either wholly or partly in arrears, and

(c) confirm the enforcement return for each parcel by determining

(i) the amount of arrears in respect of each parcel, and

(ii) any reasonable amount for the expense of mailing and other work incurred by the district in connection with the enforcement return and the costs of the application.

(2) If a person successfully opposes confirmation of the enforcement return with regard to any parcel in which that person has an interest, the Court of Queen's Bench may order an allowance for costs to be paid to that person by the district.

Effect of
registration of
adjudication

142(1) Not later than December 31 of the year in which an adjudication is made, a copy of it certified by the manager must be forwarded by registered mail to the Registrar of Land Titles, and the Registrar must register the adjudication against the land affected by it.

(2) Subject to subsections (4) and (5), the registration of an adjudication operates

(a) to vest in the district the title to an estate in fee simple in the parcel affected by the adjudication, or

(b) if the parcels are held by a purchaser under an agreement for sale with the district, to cancel the agreement for sale.

(3) On registration of an adjudication, the Registrar of Land Titles must, in the case of a parcel not owned by the district, issue a certificate of title for it under the *Land Titles Act* in the name of the district in accordance with subsections (2)(a) and (4).

(4) A certificate of title issued under subsection (3) must be issued free from all other estates and interests and from all liens, mortgages, charges and encumbrances of every nature and kind, other than

(a) those arising from claims of the Crown in right of Canada,

(b) a first mortgage,

(c) taxes charged on the land,

- (d) any condition or covenant registered under section 52 of the *Land Titles Act*,
- (e) any easement or incorporeal right where the Registrar has made a memorandum of the instrument creating the easement or incorporeal right under section 70 of the *Land Titles Act*,
- (f) any instrument registered under section 72 of the *Land Titles Act*,
- (g) right of entry orders (as defined in the *Surface Rights Act*) registered under the *Land Titles Act*, and
- (h) any resolution of a board or an order of a predecessor of a board designating the parcel or part of it as an irrigable unit.

(5) In the case of a parcel held by a purchaser pursuant to an agreement for sale entered into between the purchaser and the district, the Registrar of Land Titles must, on registration of the adjudication, cancel the registration of

- (a) any caveat pertaining to the interest of the original purchaser from the district or of any person claiming an interest in the parcel through or under that purchaser, and
- (b) any other memorandum on the district's certificate of title that was registered as a result of any act done or instrument executed by the original purchaser or any person claiming through or under that person,

but the Registrar must not cancel the registration of any document referred to in subsection (4)(a) to (h) or any caveat in respect of it.

Direction to
exclude parcel
from
adjudication

143(1) On the application of any person, a board may by resolution give a direction in writing to the manager to exclude any parcel from an adjudication until the board otherwise directs.

(2) The exclusion of the parcel must be on any terms and conditions the board from time to time prescribes in the resolution.

(3) A board must not make a resolution under this section unless it is satisfied that there is a likelihood that all amounts shown as owing on the collector's roll in respect of the parcel will be paid within a reasonable time.

(4) A board may at any time rescind a resolution made under subsection (1).

(5) A district must send a copy of each resolution made under this section and a certified copy of the adjudication under section 142(1) to the Registrar of Land Titles.

(6) The Registrar of Land Titles must register the resolution together with the adjudication.

(7) Notwithstanding section 142, an adjudication registered against a parcel by the Registrar of Land Titles under this section is of no force and effect until the board rescinds the resolution and notifies the Registrar in writing that the resolution has been rescinded.

(8) On the receipt of a notice under subsection (7), the Registrar of Land Titles must register it with the adjudication to which it relates, and on registration of the notice, the adjudication operates in the same manner as the registration of an adjudication under section 142(2).

Leasing of
land

144(1) When, under this Part, any parcel vests in the district or a purchaser's agreement for sale is cancelled, the district is entitled to the immediate vacant possession of the parcel and may at any time before the parcel is offered for sale lease the parcel for a period of not more than one year at a rent and on terms and conditions approved by the board.

(2) All rent received and profit accruing from a parcel leased under this section must be distributed as if it were proceeds of a sale.

Assessment of
parcel owned
by district

145 When, under this Part, any parcel vests in the district or a purchaser's agreement for sale is cancelled, the parcel continues to be liable to assessment under this Act and to the imposition of irrigation charges and other charges and penalties under this Act as though the district were not the owner.

Assessment
for municipal
purposes

146(1) Notwithstanding anything in any other Act, when, under this Part, any parcel vests in the district or a purchaser's agreement for sale is cancelled,

(a) the parcel must continue to be assessed by the local authority empowered to assess it, and

(b) subject to subsection (2), any taxes accruing to a local authority must continue to be charged against the parcel and carried over from year to year without collection until the district has sold the parcel.

(2) When the district disposes of the parcel either by agreement for sale or by lease, then, unless the agreement or lease otherwise

provides, the purchaser or lessee of the parcel and all persons claiming by or through the purchaser or lessee are liable for the payment of the taxes levied by the local authority in respect of the parcel during the period that the agreement for sale or lease subsists.

Sale of land
by district

147(1) When, under this Part, a parcel becomes vested in the district or the purchaser's agreement for sale is cancelled, the parcel may not be offered for sale until the expiration of 12 months after the date of the vesting or cancellation unless all the persons who, according to the records of the district and of the Registrar of Land Titles, had any interest in the parcel immediately before the vesting or cancellation request in writing that the parcel be offered for sale at an earlier date.

(2) Unless it is offered for sale sooner in compliance with subsection (1), the parcel must be offered for sale by public auction within 12 months after the expiration of the 12-month period referred to in subsection (1).

Sale by public
auction

148(1) A sale by public auction proposed to be held by a district under this Part must be advertised in

- (a) a newspaper having general circulation in the district, once in each of the 2 weeks immediately preceding the proposed date of sale, and
- (b) one issue of The Alberta Gazette, not less than 20 days before the proposed date of sale.

(2) The conditions of a sale of a parcel under this Part may require the highest bidder

- (a) to pay the amount of the bid in cash, or
- (b) to enter into an agreement for sale with the district in the form referred to in the advertisement and on the terms prescribed in the advertisement and under which the full purchase price is the amount of the bid.

(3) The advertisement must

- (a) specify the place, day and hour at which the sale will begin,
- (b) give a reasonable description of the parcel to be sold or state the number of the registered instrument from which a description can be obtained, and

(c) state the conditions of the sale referred to in subsection (2) and, if the conditions require the highest bidder to enter into an agreement for sale, indicate

(i) the proportion of the purchase price to be paid in cash as the down payment,

(ii) the maximum number of instalments, the term over which the instalments are to be paid, and the rate of interest payable in respect of the unpaid balance, and

(iii) the form of the agreement or that the form of the agreement is available for inspection at the office of the district.

(4) The district must fix the upset price for any parcel to be sold by public auction.

(5) No manager or other person offering any parcel for sale under this Act is required to obtain an auctioneer's licence for the purpose of the sale.

(6) Subject to subsection (4), the land must be sold to the highest bidder at the auction.

Sale of part of
parcel

149(1) The district may, in the case of any parcel, sell any part of it as the district considers proper if the upset price for it is sufficient to discharge all amounts owing to the district in respect of the whole of the parcel and the amount of all first mortgages that are registered against it.

(2) After a sale is made under this section the district must re-transfer the part of the parcel that was not included in the sale to the person who was the registered owner of the parcel before the registration of the adjudication.

(3) In issuing a certificate of title in respect of the portion of the parcel re-transferred, the Registrar of Land Titles must endorse on the certificate of title all uncanceled memorandums endorsed on the title to the parcel at the time of the registration of the adjudication.

Redemption of
land before
auction

150(1) At any time prior to the date specified in the advertisement for the sale by public auction of any parcel under this Part, any person may pay

(a) all amounts owing to the district in respect of the parcel as shown on the adjudication,

- (b) all other amounts that have accrued due to the district with respect to the parcel since the date of the adjudication,
- (c) all costs in connection with the sale proceedings, and
- (d) all expenses of revival of the previous registered owner's title to the parcel or revival of the purchaser's agreement for sale, as the case may be.

(2) On payment of the amounts referred to in subsection (1), the manager must give written notice to the Registrar of Land Titles of that payment, and the Registrar must

- (a) cancel the certificate of title issued in the name of the district, and
- (b) endorse the certificate of title that was cancelled on registration of the adjudication with a memorandum indicating that it is revived pursuant to this section and cancel the memorandum pertaining to the registration of the adjudication.

(3) If an agreement for sale was cancelled on registration of an adjudication,

- (a) the payment of the amounts referred to in subsection (1) operates to revive the agreement for sale,
- (b) the manager must immediately give written notice to the Registrar of Land Titles of the payment, and
- (c) the Registrar of Land Titles, on receiving the written notice from the manager under clause (b), must endorse the certificate of title for the parcel with a memorandum indicating that the registration of all caveats and memorandums previously cancelled pursuant to section 142(5) is revived.

Delay in sale
by partial
payment

151(1) If at any time prior to the date specified in the advertisement for the sale by public auction of a parcel under this Part a person pays to the district

- (a) all amounts owing to the district in respect of the parcel as shown on the adjudication,
- (b) all amounts shown on the collector's roll as owing in respect of the parcel, except amounts owing for the year in which the payment is made and the year immediately preceding that year,

- (c) all taxes owing to a local authority in respect of that parcel, except taxes owing for the year in which the payment is made and the year immediately preceding that year, and
- (d) all costs in connection with the sale proceedings,

the parcel may not be offered for sale until the expiration of 12 months from the date of the payment.

(2) If payment has been made under subsection (1) in any year and there is paid to the district in each subsequent year before the date fixed for the sale by public auction in that year

- (a) all amounts shown on the collector's roll as owing in respect of the parcel, except amounts owing for the year in which the payment is made and the year immediately preceding that year, and
- (b) all taxes owing to a local authority in respect of that parcel, except taxes for the year in which the payment is made and the year immediately preceding that year,

the parcel may not be offered for sale until the expiration of 12 months from the date of those payments.

Land not sold
at auction

152 The district may sell, lease or otherwise dispose of any parcel that is not sold at a public auction under this Part.

Distribution of
proceeds from
sale

153(1) When a parcel has been sold under this Part and a balance remains from the proceeds after payment of all amounts shown on the collector's roll as owing in respect of the parcel up to and including the date of sale, the district must pay out the balance in the following order:

- (a) pay all taxes owing to the Government or any local authority or pay those taxes on a pro rata basis if the balance is insufficient to pay all those taxes;
- (b) pay any amount spent by the district for improving the parcel.

(2) If there is any money remaining after payment of the amounts listed under subsection (1), the district must notify the previous registered owner that there is money remaining.

(3) If the district is satisfied that there are no debts that are secured by an encumbrance on the certificate of title for the parcel, the district may pay the money to the previous registered owner.

(4) If the district is not satisfied that there are no debts that are secured by an encumbrance on the certificate of title, the district must notify the previous registered owner that an application may be made under subsection (5) to recover all or part of the money.

(5) A person may apply by originating notice to the Court of Queen's Bench within 10 years of the date of the public auction for an order declaring that the person is entitled to the money remaining.

(6) In making an order under subsection (5), the Court of Queen's Bench must have regard to the priorities in which sale proceeds are distributed in a foreclosure action.

(7) If any taxes owing to the Government or to a local authority in respect of a parcel sold under this Part remain unpaid after the balance of the proceeds of the sale has been paid out in the manner prescribed by subsection (1)(a), all those taxes to the extent that they remain unpaid must be cancelled.

PART 7

SEEPAGE DAMAGE

Definitions

154 In this Part,

- (a) "seepage" means the escape of water from any irrigation works of a district through porous soil or construction material;
- (b) "seepage control plan" means the initial seepage control plan and any subsequent seepage control plans prepared by the district under this Part;
- (c) "seepage damage" means loss of or damage to property caused by seepage;
- (d) "seepage damage area" means an area or areas of land designated by a district as a seepage damage area.

Notice of seepage claim

155(1) A person may make a claim against a district for compensation for seepage damage only if

- (a) a written notice of that person's claim is filed at the office of the district not later than November 1 in the year in which the seepage damage occurred, and
- (b) the notice of claim meets the requirements of subsection (3).

(2) A person may not make a claim against a district for compensation for seepage damage if the district is exempted by a regulation under section 161(3).

(3) A notice of claim made under subsection (1) must

- (a) be filed with the district,
- (b) state that water has escaped from irrigation works of the district by seepage occurring in the year in which the notice is filed,
- (c) state that as a result of the seepage the claimant has sustained seepage damage during the same year,
- (d) identify the land where the seepage damage occurred, and
- (e) set out particulars as to the nature of the seepage damage.

(4) When, before or within 14 days after the date on which a notice of claim is filed under subsection (3),

- (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 district to determine whether seepage occurred or whether seepage damage occurred in that year or its extent,

the claimant bears the burden of proof of all facts necessary to establish the claim and the district must not accept any evidence of the claimant that is not corroborated.

(5) The district may by giving notice to the claimant require the claimant to give further particulars of the claim within the time specified in the notice for that purpose.

(6) On the delivery of a notice of claim under this section, the district must investigate the claim.

(7) If a notice of claim is filed under this section, a member of the board or employee of the district or any other person authorized in writing by the district may, without incurring liability for doing so, enter on the land of the claimant for the purpose of

- (a) determining whether seepage has occurred on that land and the seepage damage arising from the seepage,

- (b) bringing any vehicles, equipment, instruments or things on the land to conduct any tests or examinations in order to determine whether seepage has occurred, the extent or source of any seepage, or the extent or occurrence of any seepage damage,
 - (c) leaving, relocating and operating any vehicles, equipment, instruments or things brought on the land under clause (b) for the time reasonably necessary to carry out the tests or examinations, or
 - (d) removing any vehicles, equipment, instruments or things brought on the land under clause (b).
- (8) A person entering on the land under the authority of subsection (7) must
- (a) do so at a reasonable time unless authorized otherwise by an order under section 190, and
 - (b) give reasonable prior notice of intention to enter on the land to the owner or occupier of the land.
- (9) If a claim is not settled before January 1 of the following year or before the expiration of 90 days from the day the notice of the claim was delivered, whichever is later, the district must refer the claim to the Land Compensation Board.

Hearing by
Land
Compensation
Board

- 156(1)** When a claim is referred to it pursuant to section 155(9), the Land Compensation Board must hear the claim on such notice to all the parties interested as it considers proper, and must determine what seepage damage, if any, was sustained by the claimant during the year in which the claim was made.
- (2) The burden is on the claimant to prove
- (a) that seepage occurred in the year in which the claimant gave notice of the claim, and
 - (b) that the claimant sustained seepage damage in that year.
- (3) If the Land Compensation Board finds that the claimant has satisfied the burden of proving the matters referred to in subsection (2) and, where applicable, section 155(4), the Land Compensation Board may order the district to pay to the claimant compensation for the seepage damage allowed by this Part.
- (4) Notwithstanding anything in this Part, if it is shown at the hearing before the Land Compensation Board that the claimant or

a person acting under the claimant's instructions or with the claimant's consent, 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 under section 155(7), or
- (b) has destroyed, damaged or interfered with any vehicle, equipment, instrument or thing brought on the land pursuant to section 155(7),

the district is not liable to pay the claim, and the Land Compensation Board may make an order dismissing the claim accordingly.

Designation of
seepage
damage area

157(1) A district may by by-law designate any specified area or areas of land as a seepage damage area when the district is satisfied of the likelihood of continued and frequent claims against it in future for seepage damage in respect of the whole or part of that land.

(2) A by-law for the designation of a seepage damage area must describe the seepage damage area by reference to a plan of survey of the area when it cannot be described otherwise.

(3) The district must give notice in writing within 30 days of passing a by-law under subsection (1) to all owners of land in the designated seepage damage area.

Determination
of market
value of
seepage
damage area

158(1) A district must apply to the Land Compensation Board within 90 days of passing a by-law under section 157(1) to have the Board determine the market value of a seepage damage area in accordance with subsections (4) and (5).

(2) When an application is made to it under subsection (1), the Land Compensation Board may not proceed with or take any further action with respect to any claims in respect of the same area or areas that were or are subsequently referred to it under section 155(9) unless the application under subsection (1) is later withdrawn by the district.

(3) When an application is made under this section, the Land Compensation Board must determine, on the basis of the evidence adduced before it, the market value of the seepage damage area in accordance with subsections (4) and (5).

(4) The Land Compensation Board must determine the market value of a seepage damage area

- (a) as of the date of filing of the district's application with the Land Compensation Board, and as if the land had not been damaged by seepage, and
 - (b) with reference only to the value of the land itself and without reference to the value of any improvements on that land.
- (5) If the seepage damage area is a part of a larger parcel owned by the same person, the value per acre of the seepage damage area must be based on the value per acre of the larger parcel.
- (6) The Land Compensation Board may make an order setting out the amount of the market value of the seepage damage area.
- (7) An order under subsection (6) must direct the district to pay that amount
 - (a) to the person named in the order,
 - (b) to the persons named in the order if those persons have
 - (i) entered into an agreement for the distribution of the amounts to be paid under the order, and
 - (ii) notified the Land Compensation Board of their agreement under subclause (i),

or

 - (c) into the court named in the order, if the persons named in the order under clause (b) have failed to notify the Land Compensation Board of any agreement for the distribution of the amounts to be paid under the order.
- (8) An order under subsection (6) must set out the provisions of section 160(2).
- (9) When the district pays an amount into court pursuant to a direction made under subsection (7)(c), the court must, on the application of any of the claimants, determine the persons entitled to the amount and, if 2 or more persons are entitled to the amount, the portion of the amount to be paid to each.
- (10) Notwithstanding subsections (3) to (9), the Land Compensation Board may make an order under this section without the necessity of a hearing when it is satisfied that the district and all other persons who would have been entitled to be heard at the hearing have agreed on the market value of the seepage damage area.

Appeal

159(1) An appeal lies to the Court of Appeal in respect of the amount determined by the Land Compensation Board as the market value of a seepage damage area under section 158

- (a) when the amount is determined as \$10 000 or more, or
- (b) in any other case, with leave of a judge of the Court of Appeal.

(2) No person may, in proceedings before the Land Compensation Board or the Court of Appeal, dispute the right of the district to designate a seepage damage area.

**Registration of
order and
effect**

160(1) Notwithstanding that an appeal may be taken under section 159, the district may at any time after an order is made under section 158(6) register a copy of the order in the proper land titles office against the title to the seepage damage area or the land of which it is a part.

(2) Registration pursuant to subsection (1) of an order of the Land Compensation Board under section 158 operates to

- (a) forever bar any existing or future claims against the district for compensation for seepage damage occurring in, on or under the seepage damage area affected,
- (b) bar any other action or proceedings against the district in respect of seepage occurring in, on or under the seepage damage area affected, and
- (c) confer on the district an easement within the meaning of section 65(1)(g) of the *Land Titles Act* entitling the district to permit water to escape by seepage in, on and under the seepage damage area affected.

Seepage Control Plans

**Application for
exemption**

161(1) A district may apply to the Minister for an exemption from the operation of sections 155 to 160.

(2) If a district proposes to apply to the Minister for an exemption under subsection (1), the district must first

- (a) prepare a draft of an initial seepage control plan, and
- (b) publish, in a newspaper having general circulation in the district, notice of

- (i) the availability of the draft initial seepage control plan,
- (ii) the time period within which comments about the plan will be received by the district from any person, and
- (iii) the time and place of a public meeting to discuss the draft initial seepage control plan.

(3) After the time period referred to in subsection (2) has expired and a public meeting has been held, the district may apply for an exemption under subsection (1) by filing an application accompanied by an initial seepage control plan with the Irrigation Secretariat.

(4) An initial seepage control plan must

- (a) set out a 5-year plan to control, minimize or eliminate seepage from existing irrigation works,
- (b) give priority to parcels that have been subject to seepage damage and that are not on the assessment roll of the district, and
- (c) contain any other matters provided for in the regulations.

Notice of
application

162(1) The district must publish notice of an application under section 161(3) in a newspaper having general circulation in the district.

(2) A notice under subsection (1) must

- (a) briefly describe the contents of the initial seepage control plan,
- (b) state the date that the initial seepage control plan was filed with the Irrigation Secretariat,
- (c) state that copies of the initial seepage control plan are available to the public at the office of the district during regular business hours,
- (d) state that any owner of land on which seepage damage may have occurred may appeal the initial seepage control plan to the Council by filing a notice of appeal within 30 days of the date of the notice if

- (i) the land on which seepage damage may have occurred is not included in the initial seepage control plan, or
- (ii) in the opinion of the owner, the plan does not contain adequate measures to control the seepage,

and

- (e) state any other particulars as the district sees fit.

Ministerial
exemption

163 The Minister may, by regulation, exempt the district from the operation of sections 155 to 160 if

- (a) the district has complied with sections 161 and 162, and
- (b) a notice of appeal
 - (i) has not been filed in respect of the initial seepage control plan with the Council within the time prescribed in Part 8, or
 - (ii) has been filed in respect of the initial seepage control plan with the Council within the time prescribed in Part 8 and the appeal has been refused by the Council or the plan has been amended by the district in accordance with the directions of the Council.

Continued
exemption

164(1) Each district that is exempted by a regulation under section 163 continues to have an exemption under the regulation if the district files a subsequent seepage control plan with the Irrigation Secretariat within 3 years of the date of filing the initial seepage control plan and every 3 years afterwards.

(2) A continuation of an exemption under subsection (1) is subject to the district complying with the requirements set out in the regulations.

(3) A subsequent seepage control plan filed pursuant to subsection (1) may be appealed to the Council within the time prescribed in the regulations by the owner of land on which seepage damage may have occurred.

Duty to carry
out plan

165 A district exempted by a regulation under section 163 must carry out the initial seepage control plan and subsequent seepage control plans with reasonable diligence.

Loss of
exemption

166 The Minister may repeal a regulation or any provision of a regulation made under section 163 granting an exemption to a district if the Minister is satisfied that the district has failed

- (a) to file a seepage control plan that meets the requirements or the time limitations prescribed by this Part, or
- (b) to carry out a seepage control plan with reasonable diligence.

PART 8 APPEALS

Notice of
appeal

167(1) An appeal may be commenced by submitting a notice of appeal to the Council by the following persons in the following circumstances:

- (a) where the district proposes to remove a parcel from the district, any person who receives a notice under section 87(2);
- (b) where the district makes a decision or, where applicable, fails to make a decision in the prescribed time
 - (i) for a change of area under Part 4,
 - (ii) to transfer or to refuse to transfer irrigation acres under section 26,
 - (iii) to enter or to refuse to enter into a water conveyance agreement under section 21, or
 - (iv) to add or to refuse to add irrigation acres under section 96,the applicant and, in the case of an appeal under subclause (i), any other person who receives a notice under section 85(6)(a) or (7) or 86(3);
- (c) where the district decides to relocate irrigation works, any person who receives a notice under section 10(4);
- (d) where the district sitting as an assessment review board makes a decision respecting an assessment under Part 5, any person who receives a notice of decision of an assessment review board;
- (e) where the district makes a fee by-law under section 115, any person who is a party to a household purposes

agreement, a use of irrigation works agreement or a water conveyance agreement;

- (f) when the district files a seepage control plan in accordance with Part 7 any person who owns land on which seepage damage may have occurred.

(2) When the Minister refers a petition to the Council pursuant to section 78(3)(d) or (4), the Council must give notice and conduct a hearing in respect of the petition in accordance with this Part.

(3) A notice of appeal must be submitted to the Council not later than 30 days after

- (a) receipt of notice of the decision of the board,
- (b) the expiry of the time for making a decision under section 21, or
- (c) publication of a notice referred to in section 162.

(4) A notice of appeal must set out

- (a) the particulars of the matter being appealed,
- (b) the name and address of the appellant, and
- (c) the name of the district that made the decision or is affected by the matter that is the subject of the appeal.

(5) On being served with a notice of appeal the Council must immediately give a copy of the notice of appeal to the board of the district that is affected by the matter that is the subject of the appeal.

(6) The Council may convene a panel of Council members to conduct a hearing of an appeal and appoint a person to chair the panel.

(7) A panel must consist of a minimum of 3 members of the Council.

(8) Where a panel is convened, the panel has all the powers of the Council and is subject to all the same duties the Council is subject to under this Act, and a reference in this Part to the Council must be read as a reference to the panel.

Notice of hearing	<p>168 Written notice of the time and place of the hearing of the appeal must be sent by or on behalf of the Council to</p> <ul style="list-style-type: none"> (a) the appellant, (b) the board of the district, and (c) in the case of a petition referred to the Council pursuant to section 78(3)(d) or (4), the petitioners, persons filing written objections under section 78, if any, and the board of the district.
Parties	<p>169 Parties to an appeal are</p> <ul style="list-style-type: none"> (a) the appellant, (b) the district, and (c) in the case of a petition referred to the Council pursuant to section 78(3)(d) or (4), the petitioners, persons filing written objections under section 78, if any, and the district.
Dismissal of appeal	<p>170 The Council may dismiss an appeal if</p> <ul style="list-style-type: none"> (a) it considers the matters contained in the notice of appeal to be frivolous or vexatious or without merit, or (b) in the case of an appeal under section 167(1)(d), the appellant previously submitted a complaint to the assessment review board and failed to appear.
Conduct of hearing	<p>171(1) For the purposes of an appeal before the Council the following applies:</p> <ul style="list-style-type: none"> (a) an appeal must be heard and a decision must be made within 60 days from the day that the Council receives the notice of appeal; (b) the granting and duration of an adjournment is in the sole discretion of the Council; (c) the time limit prescribed in clause (a) does not run during a period of adjournment; (d) a period of adjournment must not exceed 45 days;

- (e) the Council may by notice in writing require the attendance of witnesses and the production of any record, object or thing that relates to the matter being heard;
- (f) the Council may hear representations during the hearing from any persons who the Council considers should be allowed to make representations;
- (g) a person allowed to make representation under clause (f) becomes a party to the appeal for the balance of the appeal;
- (h) the parties to an appeal have a right to attend all hearings held in respect of the appeal;
- (i) the Council must receive the evidence that it considers relevant to the matter being heard;
- (j) the rules of evidence applicable to judicial proceedings do not apply;
- (k) a person appearing before the Council may be represented by legal counsel;
- (l) the parties appearing before the Council must be given adequate opportunity to make representations, present evidence and cross-examine witnesses, if any;
- (m) the Council may take evidence under oath;
- (n) any member of the Council may administer oaths for the purpose of taking evidence;
- (o) all oral evidence received must be taken down in writing or recorded by electronic means;
- (p) all the evidence taken down in writing or recorded by electronic means and all documentary evidence and things received in evidence at a hearing form the record of the proceeding;
- (q) if a party to an appeal fails to appear for the hearing within one hour from the time set out in the notice given under section 168, the appeal may be dismissed or the hearing conducted and determined in that person's absence as the Council considers proper in the circumstances;
- (r) at any time after a person serves a notice of appeal, the Council may make any interim direction that it considers advisable in the circumstances pending the determination of the appeal;

- (s) the provisions of the *Alberta Rules of Court* relating to the payment of conduct money or witness fees apply to matters heard under this Act.

(2) If 2 or more appeals have a common question of law or fact or arise out of the same decision of the district, the Council may order that the appeals be heard simultaneously or consecutively.

Council
decision

172(1) In determining an appeal, the Council may

- (a) confirm, vary or rescind the decision of the board,
- (b) in the case of a notice of appeal under section 167(1)(e), refer the matter back to the board to reconsider its decision subject to any recommendations that the Council considers appropriate,
- (c) in the case of a notice of appeal under section 167(1)(f),
 - (i) refuse the appeal, or
 - (ii) refer the seepage control plan back to the district and, where required, direct the district to amend the plan in accordance with the directions of the Council,
- (d) in the case of a petition to the Minister referred to the Council under section 78(3)(d) or (4), make a recommendation to the Minister to grant or refuse the petition, or
- (e) in the case of a notice of appeal under section 167(1)(b)(iii), where the district fails to make a decision in the prescribed time, direct the district to deal with the application and prescribe the time within which the district must make a decision respecting the application.

(2) Notice of the decision made pursuant to an appeal and any written reasons respecting the decision must be sent promptly to all the parties to the appeal.

(3) A decision of the majority of the members of the Council is the decision of the Council, and if there is not a majority, the decision of the chair is the decision of the Council.

(4) A member of the Council who does not concur with a decision, direction or recommendation of the Council may make a minority report.

(5) The Council may publish its decision, direction or recommendation in any manner that it considers appropriate.

Appeal without
hearing

173(1) With the consent of the parties to an appeal the consideration of the appeal may be conducted without a hearing.

(2) Where the consideration of an appeal is conducted under subsection (1),

(a) all matters concerning the appeal may be submitted in writing to the Council, or as otherwise directed by the Council, and

(b) the process under which the appeal is considered and determined by the Council is deemed to be a hearing.

(3) Notwithstanding section 171(1)(a), if the consideration of an appeal is conducted under subsection (1), the decision of the Council must be made within 30 days from the day that the parties to the appeal consented to the consideration of the appeal being conducted under subsection (1).

Mediation

174(1) The Council may, prior to conducting the hearing of an appeal, on its own initiative or at the request of any of the parties, convene a meeting of the parties and any other interested persons the Council considers should attend, for the purpose of mediating a resolution of the subject-matter of the notice of appeal.

(2) Where the parties agree on a resolution of the subject-matter of a notice of appeal filed pursuant to section 167(1)(a) to (f), the Council must within 15 days

(a) make its written decision reflecting the resolution agreed on,

(b) obtain the signatures of all the parties to the appeal consenting to the written decision, and

(c) send a copy of the written decision to each party.

(3) Where the parties do not agree on a resolution of the subject-matter of a notice of appeal, the presiding Council member, in consultation with the parties, may determine the matters to be included in the hearing of the appeal and any matters of procedure.

Privative
clause

175 No decision, order, direction, ruling or proceeding of the Minister, the Council or the person exercising the powers or performing the duties of the Council shall be questioned or reviewed in any court, and no order shall be made or process entered or proceedings taken in any court to question, review, prohibit or restrain the Minister or the Council or any of its proceedings.

PART 9

GENERAL

Regulations and By-laws

Regulations

176(1) A regulation under this Act may adopt or incorporate in whole or in part or with modifications documents that set out standards, codes, objectives, guidelines or other bodies of rules that relate to any matter in respect of which a regulation may be made under this Act if the standards, codes, objections, guidelines or other bodies of rules have been published and copies are readily available.

(2) The Minister may make regulations

- (a) respecting the information to be given to the public by a board of a district before a plebiscite is held under section 7, 11 or 12;
- (b) respecting the question, any information or any other matter to be included on a ballot in a plebiscite under section 7, 11 or 12;
- (c) respecting the conduct and holding of a plebiscite generally;
- (d) respecting the publication of the notice of the date for making an application under section 25 or 26;
- (e) defining for the purposes of this Act
 - (i) investment;
 - (ii) relocate irrigation works;
- (f) prescribing forms for the purposes of this Act;
- (g) respecting the manner of determining a debt limit for a district;

- (h) respecting the establishment of land classification standards for determining the suitability of land for irrigation and land assessment criteria to be used in the assessment of land;
- (i) respecting the provision of notice for the time and place of hearing of complaints by the assessment review board;
- (j) respecting the form and manner of posting the list of complaints under Part 5;
- (k) providing for an exemption or a continued exemption for a district from the operation of sections 155 to 160;
- (l) respecting the contents of a draft seepage control plan and a seepage control plan;
- (m) prescribing the time limit for an appeal to the Council from a subsequent seepage control plan filed with the district.

By-laws

177(1) A district must make by-laws

- (a) establishing rates for all parcels with irrigation acres or acres subject to a terminable agreement or an annual agreement;
- (b) governing quorum and voting procedures at meetings of the board;
- (c) prescribing the date of an election for a district;
- (d) governing the election of officers of the board, including the chair and vice-chair;
- (e) establishing the rate of remuneration and expenses to be paid to members of the board.

(2) A district may make by-laws

- (a) governing the delivery and distribution of water to users;
- (b) governing the maximum amount of water that may be delivered by the district to each acre receiving water for irrigation purposes;
- (c) establishing a expansion limit other than the expansion limit specified in Table 2 of the Schedule;
- (d) establishing capital charges;

- (e) governing surcharges;
 - (f) establishing fees for household purposes agreements, use of irrigation works agreements and water conveyance agreements;
 - (g) providing for different classes of fees for fees established under clause (f);
 - (h) exempting persons or classes of persons from fees established under clause (f);
 - (i) establishing discounts for payment of charges entered on the collector's roll in the same calendar year;
 - (j) governing penalties for unpaid amounts to be entered on the collector's roll each calendar year and the time periods after which a new penalty may be added to the collector's roll;
 - (k) establishing a fiscal year;
 - (l) authorizing the borrowing of money;
 - (m) governing fees payable by the public to the district for the inspection of documents or records or supplying any extracts or copies of those documents or records;
 - (n) respecting an election by electoral divisions;
 - (o) governing the procedures for a vote by mail under section 72;
 - (p) governing the calling and conducting of meetings or special meetings of the board;
 - (q) governing the appointment of committees of the board;
 - (r) governing the duties of the chair of the board;
 - (s) governing the duties and powers of the manager of the district.
- (3)** A by-law passed under subsection (2)(c) must be filed with the Council.
- (4)** A by-law passed under subsection (2)(l) must
- (a) set out the maximum amount of money to be borrowed and, in general terms, the purpose for which the money is borrowed,

- (b) set out the maximum rate of interest, the term and the terms of repayment of the borrowing, and
 - (c) set out the source or sources of money to be used to pay the principal and interest owing under the borrowing.
- (5) When by this or any other Act a by-law of a district is required,
- (a) the by-law must be given 3 readings before its final passing, and
 - (b) all 3 readings must not be given to the by-law at the same meeting unless all directors are present at that meeting and they unanimously agree to give the by-law third reading.
- (6) The *Regulations Act* does not apply to by-laws under subsections (1) and (2).

Miscellaneous

Judgments
against district

178(1) When a district is a judgment debtor and a writ of enforcement is filed in the Personal Property Registry,

- (a) no seizure or garnishment proceedings may be made or taken to satisfy the judgment debt or costs under the writ except in the circumstances permitted by this section, and
- (b) a copy of the writ may not be filed under the *Land Titles Act*.

(2) On the entry of a judgment against the district, the district must, if it is unable to pay the judgment debt in whole or in part, include as an expense under section 117(2) an amount sufficient to pay the outstanding indebtedness under the judgment and interest on that amount to the end of the year in which the estimate is prepared.

(3) If, by the end of the year referred to in subsection (2), the whole of the amount outstanding has not been paid in full, seizure or garnishment proceedings may be taken to recover that amount, but seizure may be made only of property that may be seized as provided for pursuant to section 50 and Division 2 of Part 6 of the *Civil Enforcement Act*.

Negligence
claims

179(1) Subject to Part 7, a district or any officer, employee or agent of a district is liable only for an injury to a person or damage to property caused by the escape, release or discharge of water from or the ponding of any water caused by the existence of the

irrigation works in the district if the district or any officer, employee or agent of the district is negligent.

(2) A person who brings an action for negligence under subsection (1) must notify the district of the event that gives rise to the action within 6 months of the event.

(3) Failure to notify the district is a bar to the action unless

- (a) there is a reasonable excuse for the lack of notice and the district is not prejudiced by the lack of notice,
- (b) of the event complained of resulted in a death, or
- (c) the district waives in writing the requirement for notice.

Protection
from liability

180 No action for damages may be commenced against

- (a) a person who is a member of a board of a district or the Council, or
- (b) a person who is an employee or agent of or is under contract to a district,

for anything done or not done by that person in good faith while carrying out that person's powers or duties under this Act, including, without limitation, any failure to do something when that person has discretionary authority to do something but does not do it.

Giving notice

181(1) For the purposes of this section, "telecopier" means a machine or device that electronically transmits a copy of a document, picture or other printed material by means of a telecommunication system.

(2) If a notice, request, order, direction or other document is required to be given under this Act, it is deemed to be sufficiently given if a copy of it is

- (a) personally given to the person to whom it is directed,
- (b) sent by mail addressed to the person to whom it is directed at the last known address for that person,
- (c) sent by means of a telecopier and received and printed by the receiving telecopier at the last known address for the person to whom it is directed, or

- (d) in the case of a registered owner of land that is not patented land as defined in the *Metis Settlements Act*, sent by mail to the address for the registered owner shown on the assessment roll.

**Adverse
possession**

182 No person may acquire an estate or interest in land owned by a district by adverse or unauthorized possession, occupation, enjoyment or use of the land.

Soil drifting

183(1) Where, in the opinion of the board, irrigation works of a district may be adversely affected by drifting soil, a member of the board or employee of a district or any other person authorized in writing by the district may, without incurring liability for doing so, enter on the land and take all necessary steps to control the drifting soil.

(2) A person entering on the land under the authority of subsection (1) must do so in the manner provided for in section 155(8).

(3) The costs of carrying out measures to control drifting soil under this section are recoverable by the district in an action in debt against the person who is responsible for the need to take those measures.

Right to use

184(1) In this section, “intervening parcel” means any land, inside or outside the district, on or within which there exist any irrigation works or natural channels or features that from time to time during the 10-year period immediately preceding May 2, 1968 were used by the district for the purpose of carrying water from any irrigation works of the district to any other place, whether or not the district had any legal estate or interest or right permitting it to do so.

(2) The district has in respect of an intervening parcel the right in perpetuity

- (a) to enter on the intervening parcel for the purpose of maintaining, replacing, dismantling or abandoning any irrigation works on it or for the purpose of maintaining any natural channel or feature on it,
- (b) to use the irrigation works or natural channel or feature on the intervening parcel for the purpose of delivering water to an irrigable parcel or any part of the parcel or for the purpose of carrying water from any irrigation works of the district to any other place,
- (c) to use as much land on either side of the irrigation works on the intervening parcel as may be required by the district

for the deposit of soil on it, and for the maintenance, replacement, dismantling or abandoning of the irrigation works, and

- (d) to use as much land on either side of the natural channel or feature on the intervening parcel as may be required for the deposit of soil on it or for the maintenance of the natural channel or feature.

(3) The rights conferred on a district by subsection (2) are deemed to be an easement within the meaning of section 65(1)(g) of the *Land Titles Act* in favour of the district.

(4) No district is liable for the payment of compensation or damages by reason of the exercise of rights conferred on it by this section.

Extension of
time

185 The Council may, before or after the time has passed, extend the time within which anything is required to be done by any person under this Act, the regulations or a direction or decision of the Council.

District
property
exempt from
tax

186 Except as provided in section 298(1)(c) of the *Municipal Government Act*, the irrigation works of a district are exempt from every tax, levy and rate imposed by the Government of Alberta or a municipality, school board or other public authority.

Duty to take
reasonable
care

187 An owner or occupier of land who receives water delivered by the district is under a duty to take reasonable care in using the water and to prevent the water from causing injury to any person or damage to any property.

Offences

188(1) A person who

- (a) uses water for household purposes without
 - (i) entering into an agreement under section 19, or
 - (ii) being otherwise authorized to do so under this Act,
- (b) uses the irrigation works without entering into an agreement under section 20,
- (c) hinders or interferes with any person who is exercising a power or carrying out a duty under this Act,
- (d) makes a fraudulent assessment under Part 5,

- (e) destroys, damages or otherwise interferes with any irrigation works,
- (f) without authority, takes or diverts water from any irrigation works,
- (g) applies water from irrigation works to acres not shown on the assessment roll,
- (h) does anything to interfere with the flow of water in, into, through or from any irrigation works,
- (i) deposits or causes to be deposited any deleterious substance along the bank of or into any irrigation work, or
- (j) contravenes section 62 or 187,

is guilty of an offence and liable to a fine of not more than \$5000 for the first conviction and not more than \$10 000 for each subsequent conviction.

(2) A person who is guilty of an offence under this Act is liable on conviction to pay a fine in respect of each day or part of a day on which the offence occurs or continues.

Court orders
relating to
penalty

189(1) When a person is convicted of an offence under this Act, in addition to any other penalty that may be imposed under this Act, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, make an order having any or all of the following effects:

- (a) directing the offender to take any action the court considers appropriate to repair any damage that resulted or may result from the act or omission that constituted the offence;
- (b) directing the offender to compensate the district for the cost of any remedial or preventive action that was carried out or caused to be carried out by the district and that was made necessary by the act or omission that constituted the offence;
- (c) directing the offender to pay compensation to any person for loss of or damage to property suffered by that person as a result of the act or omission that constituted the offence.

(2) Where the court makes an order under subsection (1)(b) or (c), the district or the person, as the case may be, may file the order with the clerk of the Court of Queen's Bench, and on filing, the

order may be enforced as if it were a judgment of the Court of Queen's Bench in civil proceedings.

Application to
Court

190(1) Where the owner or person in possession or control of land refuses to allow an employee, agent or member of the board of a district to exercise powers under this Act or hinders or interferes with the employee, agent or member in the exercise of those powers, the district may apply by originating notice to a judge of the Court of Queen's Bench for an order directing the owner or person in possession or control to do or refrain from doing anything the judge considers necessary in order to enable the employee, agent or member to exercise those powers, and the judge may make the order accordingly.

(2) An application under subsection (1) may be made *ex parte* where the judge considers it proper to do so.

Exclusion from
Public Utilities
Board Act

191 The *Public Utilities Board Act* does not apply in respect of any matter arising in connection with an agreement entered into, a by-law or regulation made or any rate, charge or fee imposed by a district under this Act.

Exclusion from
Water Act

192 A by-law, regulation, rate, charge or fee that is made, imposed or set under this Act does not need to be approved pursuant to the *Water Act*.

PART 10

TRANSITIONAL PROVISIONS, CONSEQUENTIAL AMENDMENTS, REPEALS AND COMING INTO FORCE

Transitional Provisions

Definitions

193 In this Part, "former *Irrigation Act*" means the *Irrigation Act* (RSA 1980 cI-11).

Districts

194(1) The corporation known as the "Board of Directors of the (naming the district) Irrigation District" in existence immediately before the coming into force of this Act is continued under this Act as a corporation under the name of "(naming the district) Irrigation District" in accordance with Table 1 of the Schedule.

(2) The assets, rights, liabilities, functions and obligations of a corporation established under section 23(1) of the former *Irrigation Act* are vested in the district and the district may deal with them in its own name.

Boards of Districts	195 The board as defined in section 1(b) of the former <i>Irrigation Act</i> is continued as a board under this Act.
Effect of continuation	196 A district that is continued under this Act is for all purposes to be treated as if it had been formed under this Act.
Members of boards	197 Members of a board of a district who hold office immediately before the coming into force of this Act continue to hold office as members of the board under this Act until they are replaced in accordance with this Act, their terms of office expire or an election has been held to replace them.
Irrigation Council	<p>198(1) The Irrigation Council in existence before the coming into force of this Act is continued as the Irrigation Council under this Act.</p> <p>(2) Each member of the Irrigation Council appointed under the former <i>Irrigation Act</i> is deemed to be a member of the Irrigation Council under this Act until March 31, 2000, unless before that date, the Minister rescinds the appointment of any member.</p>
Orders	<p>199(1) Orders of the Council under section 20(3) and (4) of the former <i>Irrigation Act</i> constituting a district are continued and deemed to be orders of the Minister under this Act.</p> <p>(2) Orders of the Council granting a petition for a change of area of a district under Part 1 of the former <i>Irrigation Act</i> are deemed to be part of the respective orders of the Minister continued under subsection (1).</p> <p>(3) On the coming into force of this Act, each district is constituted of the parcels bearing a notation on the certificate of title pursuant to section 23 of the <i>Land Titles Act</i> that the parcel forms part of the district.</p>
Seepage agreements	200 On coming into force of this Act, an agreement deemed to have been validly made pursuant to section 192 of the former <i>Irrigation Act</i> continues as a valid agreement under this Act and has the same effect for the purposes of this Act as provided for under section 192 of the former <i>Irrigation Act</i> .

Seepage claims exemption continued	<p>201(1) A board of a district that is exempted from the operation of sections 172 to 177 of the former <i>Irrigation Act</i> by the <i>Irrigation Seepage Claims Exemption Regulation</i> (AR 158/85) is deemed to be exempted from the operation of sections 155 to 160 of this Act, and the ditch rehabilitation plan prepared by the board is continued as an initial seepage control plan of the district under this Act for 3 years after the coming into force of this Act or until the ditch rehabilitation plan expires, whichever first occurs.</p> <p>(2) Before the expiry of the time period or the ditch rehabilitation plan referred to in subsection (1), the district must comply with the requirements of the regulations referred to in section 164(2).</p>
By-laws	<p>202(1) A by-law passed by a board of a district under the former <i>Irrigation Act</i> continues with the same effect as if it had been passed under this Act.</p> <p>(2) If a by-law continued under subsection (1) is not authorized by this Act, the by-law continues in force for 6 months from the date of the coming into force of this Act, after which the by-law must be repealed or amended to comply with this Act.</p>
Appointments, resolutions and other decisions	<p>203 Appointments, resolutions and other decisions made by a board of a district under the former <i>Irrigation Act</i> continue with the same effect as if they had been made under this Act.</p>
Contracts	<p>204 The agreements and contracts of a corporation under section 23(1) of the former <i>Irrigation Act</i> that are in force immediately before the coming into force of this Act are continued as if they were made under this Act.</p>
Borrowing and loan guarantees	<p>205 Nothing in this Act affects any money borrowed by or a loan guarantee made by a corporation under section 23(1) of the former <i>Irrigation Act</i>.</p>
Complaints to continue	<p>206 Where a notice of complaint was given to a court of revision under the former <i>Irrigation Act</i> and the complaint was not disposed of before the coming into force of this Act, the complaint must continue to be dealt with as if this Act had not come into force, and the members of the court of revision continue as the court of revision until the complaint is disposed of.</p>

Appeals to continue	207 Where a notice of appeal was given to the Irrigation Appeal Tribunal and the appeal was not concluded before the coming into force of this Act, the appeal must continue to be dealt with as if this Act had not come into force, and the members of the Irrigation Appeal Tribunal continue as the Irrigation Appeal Tribunal until the appeal is concluded.
Decisions of the court of revision and the Irrigation Appeal Tribunal	208 Decisions made by the courts of revision and the Irrigation Appeal Tribunal before the coming into force of this Act continue with the same effect as if they had been made under this Act.
Assessment roll	209 An assessment roll prepared before the coming into force of this Act must be revised to comply with section 98 of this Act on the coming into force of this Act.
Collector's roll	210 Any amounts included on the collector's roll prepared under section 141 of the former <i>Irrigation Act</i> as a result of by-laws made under sections 133, 134, 135 and 136 of the former <i>Irrigation Act</i> are continued as amounts owing to a district under this Act and may be included on the billing notice issued by a district under section 130.
Assessment notice, billing notice	211(1) A billing notice prepared before the coming into force of this Act is deemed to be a billing notice for the purposes of this Act. (2) An assessment notice prepared under the former <i>Irrigation Act</i> is deemed to form part of a billing notice under this Act.
Enforcement return	212 An enforcement return or adjudication of an enforcement return made under the former <i>Irrigation Act</i> continues with the same effect as if made under this Act.
Dissolution of Mcleod Irrigation District	213 The Mcleod Irrigation District formed by order of the Minister on June 26, 1940 under the <i>Irrigation Districts Act</i> (RSA 1922 c114) is hereby dissolved.

Consequential Amendments

Consequential amendments	214(1) The <i>Agricultural Service Board Act</i> is amended in section 16(5) by adding "charges" after "irrigation". (2) The <i>Builders' Lien Act</i> is amended is section 5(2) by striking out "a board of directors of" wherever it occurs.
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(3) The *Crop Liens Priorities Act* is amended by repealing section 1(d).

(4) The *Government Organization Act* is amended in Schedule 12 in section 3(3)(a) by striking out “the board of directors of”.

(5) The *Land Titles Act* is amended

(a) in section 23 by adding “or notice” after “any other order” and by adding “or notice” after “in the order”;

(b) in section 65

(i) in subsection (2)(b) by adding “charges” after “including irrigation”;

(ii) in subsection (2)

(A) by striking out “Part 5 of the *Irrigation Act*” and substituting “Part 6 of the *Irrigation Districts Act*”;

(B) by striking out “rate enforcement return under the *Irrigation Act*” and substituting “enforcement return under the *Irrigation Districts Act*”.

(6) The *Municipal Government Act* is amended

(a) in section 290(2) by striking out “*Irrigation Act*” and substituting “*Irrigation Districts Act*”;

(b) in section 298(1)(c) by striking out “*Irrigation Act*” and substituting “*Irrigation Districts Act*” and by striking out “the board of directors of”;

(c) in section 304(1) in Column 1(d) by striking out “*Irrigation Act*” and substituting “*Irrigation Districts Act*” and by striking out “the board of directors of the irrigation district or drainage district” and substituting “the irrigation district or the board of trustees of the drainage district”;

(d) in section 644(2) by striking out “a board of an irrigation district” and substituting “irrigation district”.

(7) The *Pipeline Act* is amended in section 42 by striking out “*Irrigation Act*” and substituting “*Irrigation Districts Act*”.

(8) The *Public Lands Act* is amended

(a) in section 28(2)(b) by striking out “irrigation rates under the *Irrigation Act*” and substituting “irrigation charges under the *Irrigation Districts Act*”;

(b) in section 63

(i) in clause (b) by striking out “rates in an irrigation district or drainage district” and substituting “irrigation charges in an irrigation district or rates in a drainage district”;

(ii) by striking out “taxes or rates to the extent that its provisions relate to the sale of land for the purpose of tax or rate recovery” and substituting “taxes, rates or charges to the extent that its provisions relate to the sale of land for the purpose of recovering taxes, rates or charges”.

(9) The *Water Act* is amended

(a) in section 1(1)(dd) by striking out “*Irrigation Act*” and substituting “*Irrigation Districts Act*”;

(b) in section 1(1)(ff)(vi) by striking out “*Irrigation Act*” and substituting “*Irrigation Districts Act*”;

(c) in section 89(6) by striking out “a board of directors of”.

Repeal

Repeal **215** The following Acts are repealed:

(a) *Irrigation Act*;

(b) *The Magrath Irrigation District Act, 1932*.

Coming into Force

Coming into force **216** This Act comes into force on Proclamation.

SCHEDULE

Table 1

Column A	Column B
Board of Directors of the Aetna Irrigation District	Aetna Irrigation District
Board of Directors of the Bow River Irrigation District	Bow River Irrigation District
Board of Directors of the Eastern Irrigation District	Eastern Irrigation District
Board of Directors of the Leavitt Irrigation District	Leavitt Irrigation District
Board of Directors of the Lethbridge Northern Irrigation District	Lethbridge Northern Irrigation District
Board of Directors of the Magrath Irrigation District	Magrath Irrigation District
Board of Directors of the Mountain View Irrigation District	Mountain View Irrigation District
Board of Directors of the Raymond Irrigation District	Raymond Irrigation District
Board of Directors of the Ross Creek Irrigation District	Ross Creek Irrigation District
Board of Directors of the St. Mary River Irrigation District	St. Mary River Irrigation District
Board of Directors of the Taber Irrigation District	Taber Irrigation District
Board of Directors of the United Irrigation District	United Irrigation District
Board of Directors of the Western Irrigation District	Western Irrigation District

Table 2

Irrigation District Expansion Limits

Name of District	Expansion Limit
Aetna Irrigation District	3 560 acres
Bow River Irrigation District	211 000 acres
Eastern Irrigation District	286 000 acres
Leavitt Irrigation District	4 770 acres
Lethbridge Northern Irrigation District	167 000 acres
Magrath Irrigation District	18 300 acres
Mountain View Irrigation District	3 740 acres
Raymond Irrigation District	46 500 acres
Ross Creek Irrigation District	1 210 acres
St. Mary River Irrigation District	372 000 acres

Taber Irrigation District	82 200 acres
United Irrigation District	34 400 acres
Western Irrigation District	95 000 acres