



ANNO OCTAVO

GEORGII V REGIS.

A.D. 1917.

No. 1295.

An Act to provide for the Abolition of the South-Eastern Drainage Management Board and for the performance of its Functions by the South-Eastern Drainage Assessment Board, to amend the South-Eastern Drainage Act Amendment Act, 1908, and the South-Eastern Drainage Scheme Acts, 1908 and 1910, and to make Adjustments as to the Cost of certain Drains to which the South-Eastern Drainage Act Amendment Acts, 1908 and 1909, apply, and for other purposes.

[Assented to, November 15th, 1917.]

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

1. (1) This Act may be cited alone as the "South-Eastern Drainage Act Further Amendment Act, 1917." Short titles.

(2) The South-Eastern Drainage Act Amendment Acts, 1908 and 1909, and this Act may be cited together as the "South-Eastern Drainage Act Amendment Acts, 1908 to 1917." No. 962 of 1908.
No. 989 of 1909.

(3) The South-Eastern Drainage Act Amendment Act, 1908, is hereinafter referred to alone as "the amending Act of 1908," and the South-Eastern Drainage Act Amendment Act, 1909, is hereinafter referred to alone as "the amending Act of 1909." Meaning of "amending Act of 1908," and of "amending Act of 1909."

2. This Act is incorporated, and shall be read as one Act, with the South-Eastern Drainage Act Amendment Acts, 1908 and 1909, Incorporation with other Acts.

South-Eastern Drainage Act Further Amendment Act.—1917.

1909, and the South-Eastern Drainage Scheme Acts, 1908 and 1910, and the Acts with which those Acts are respectively incorporated.

Interpretation.

3. In this Act “the Board” means the South-Eastern Drainage Assessment Board.

Management of South-Eastern Drainage.

Abolition of South-Eastern Drainage Management Board.

4. (1) The South-Eastern Drainage Management Board is hereby abolished.

Property and functions of Drainage Board to be vested in Assessment Board.

(2) Subject to section 34 of this Act, from the coming into operation of this Act all the property, rights, powers, functions, immunities, obligations, and duties which, under or by virtue of Division II. of Part III. of the amending Act of 1908 and section 10 of the amending Act of 1909, are, upon the passing of this Act, vested in or may be exercised, enjoyed, or performed by the South-Eastern Drainage Management Board shall be vested in, and shall be exercised, enjoyed, and performed by, and be imposed upon the South-Eastern Drainage Assessment Board.

(3) For the purpose of giving effect to the provisions of subsection (2) hereof—

No. 629 of 1895.

(a) all the provisions of the principal Act and of the South-Eastern Drainage Act Amendment Act, 1895, so far as, before the coming into force of the said Division II., they applied to the District Councils and their districts, shall apply to the Board hereby incorporated and to the South-East to the same extent as if the said Board and the South-East had been referred to in the last-mentioned Act in place of District Councils or a District Council and their districts or district ; and

(b) the South-East, as heretofore and as hereafter extended, shall be a Drainage District within the meaning of the principal Act.

Amendment of section 12 of Act No. 1027 of 1910—

Board to be drainage authority in South-East.

5. From the coming into operation of this Act the Board shall for the purposes and within the meaning of section 12 of the South-Eastern Drainage Scheme Amendment Act, 1910, be deemed to be the drainage authority having the care, control, and management of drains and drainage works in the South-East as heretofore and as hereafter extended.

Moneys for purposes of this Act to be paid out of moneys provided by Parliament.

6. Notwithstanding anything in this Act, or any Act with which this Act is incorporated, the moneys required for the exercise, enjoyment, and performance by the Board of the powers, functions, obligations, and duties by this Act vested in or conferred or imposed upon the Board, in so far as no provision is by this Act made for the payment of such moneys, shall be paid out of moneys provided by Parliament for that purpose, which moneys shall be repaid by the Board from time to time out of moneys derived from rates.

Special

*South-Eastern Drainage Act Further Amendment Act.—1917.**Special Provisions Relating to Assessment Board.*

7. (1) The South-Eastern Drainage Assessment Board shall be a body corporate under the name of "The South-Eastern Drainage Assessment Board," and shall have perpetual succession and a common seal, and by such name shall be capable of suing and being sued, and of being a party to arbitration, and of doing and suffering, subject to this Act, all such other acts and things (except purchasing, holding, and alienating land) as bodies corporate may by law do and suffer.

S.E. Drainage
Assessment Board
to be body corporate.

(2) All Courts, Judges, and persons acting judicially shall take judicial notice of such seal when affixed to any instrument, and shall presume that the same was properly affixed thereto.

8. In addition to the events mentioned in section 14 of the amending Act of 1908 upon the happening of which the office of a representative member of the Board shall be vacated, the office of such representative member shall be vacated if he—

Vacation of office of
representative
member of Board.
Cf. 962, 1908, s. 25.

(a) holds any office or place of profit in the gift or disposal of the Board; or

(b) by himself, his partner, or otherwise, has any interest in any contract or agreement with or any employment under the Board.

9. (1) The Board may from time to time make, amend, add to, and annul regulations for or relating to—

Regulations for
business of Board.

I. the times and places and notices of its meetings:

II. the conduct of its proceedings and business:

III. the duties, control, supervision, and guidance of its officers, and servants:

IV. the use of its common seal.

Cf. *ibid.*, s. 27.

(2) All such regulations shall be published in the *Government Gazette*; and the *Gazette* purporting to contain any such regulation, amendment, addition, or annulment shall be conclusive evidence thereof, and that the same was duly made or effected.

10. The Board may from time to time, subject to the approval of the Commissioner, appoint and employ such officers and servants as the Board deems necessary for enabling the Board to carry into execution its various powers and duties, at such salaries and wages and with such allowances for expenses as the Board deems proper, and may, subject as aforesaid, remove or dismiss any officer or servant at pleasure, but without prejudice to the rights of any person wrongfully removed or dismissed.

Officers and auditors
of Board.

Cf. *ibid.*, s. 29.

11. The Board—

(a) shall cause proper minutes or records of all its proceedings to be kept. Every minute or record purporting to

Minutes and accounts
of Board.

Cf. *ibid.*, s. 30 (part).

to

South-Eastern Drainage Act Further Amendment Act.—1917.

to be signed by the chairman or acting chairman of the Board, and every document purporting to be certified as a correct copy of any minute or record under the hand of the chairman, shall be presumed respectively to be a minute or record of the proceedings of the Board or a correct copy thereof, and shall be evidence of the matters therein stated, according to its purport: and

- (b) shall cause to be kept proper books of account for the purpose of entering all sums of money received and paid on behalf of the Board.

Accounts of Board to be audited by Commissioner of Audit.

Cf. *ibid.*, s. 30 (part).

12. (1) The accounts of the Board shall be audited by the Commissioner of Audit or some other person appointed by the Governor in that behalf.

(2) The Commissioner of Audit or the person so appointed shall, for the purposes of such audit and accounts, have all the powers for the time being vested by law in the Commissioner of Audit in relation to the audit of public accounts.

Adjustments as to the Cost of Constructing Certain Drains.

Ross Drain and Garey's Swamp or Lochaber Valley Drain.

No. 737 of 1900.

No. 963 of 1908.
No. 1027 of 1910.

13. Whereas two drains, known respectively as the Ross Drain and the Garey's Swamp Drain, or Lochaber Valley Drain, have been constructed pursuant to petitions presented under the South-Eastern Drainage Amendment Act, 1900: And whereas under the amending Act of 1908, the lands to be benefited by such drains have been defined, and under that Act the cost of the construction thereof has been apportioned, and certain landowners have become liable to repay such cost with interest, and certain lands have become charged with such cost: And whereas the said drains will be entirely, or almost entirely, incorporated in certain drains to be constructed under the South-Eastern Drainage Scheme Acts, 1908 and 1910, and the last-mentioned Acts make provision for the repayment of one-half of the cost of constructing drains thereunder: Now it is hereby enacted that—

- (a) the said defining of the lands to be benefited and the said apportionment shall hereafter have no effect, and the said liability and charge are hereby discharged;
- (b) either of the said two drains shall, to the extent that it is incorporated in any drain constructed under the South-Eastern Drainage Scheme Acts, 1908 and 1910, be regarded as part of the last-mentioned drain; and
- (c) the cost of the construction of either of the said two drains shall, to the extent that it is incorporated in any drain constructed under the last-mentioned Acts, be regarded as part of the cost of construction of the last-mentioned drain, and one-half thereof, to the extent aforesaid, shall accordingly be repaid under those Acts.

14. Whereas

South-Eastern Drainage Act Further Amendment Act.—1917.

14. Whereas two drains, known respectively as the Bray Drain and the Ross Drain, have been constructed pursuant to one and the same petition presented under the South-Eastern Drainage Amendment Act, 1900, and the last-mentioned drain is the same drain as the Ross Drain mentioned in section 13 of this Act: And whereas under the amending Act of 1908 the lands to be benefited by the said two drains have been defined, and under that Act the cost of the construction thereof has been apportioned, and certain landholders have become liable to repay such cost with interest, and certain lands have become charged with such cost: And whereas, in consequence of the provisions of section 13 of this Act, it is necessary to make other provision for the repayment of the cost of the construction of the said Bray Drain: Now it is hereby enacted that—

Bray Drain.

No. 737 of 1900.

- (a) the said defining of the lands to be benefited and the said apportionment shall hereafter have no effect, and the said liability and charge are hereby discharged;
- (b) the Engineer-in-Chief shall certify to the Commissioner what lands will be benefited by the Bray Drain, and what amount of the cost of the construction of the Bray and Ross Drains, as already certified by him under the amending Act of 1908, is the cost of the construction of the Bray Drain, and his certificate shall be conclusive as to what lands will be benefited by the Bray Drain and as to the cost of the construction thereof; and
- (c) section 55 of the amending Act of 1908 shall apply in respect of the said cost of construction; fresh preliminary and final apportionments of such cost shall be made under sections 57 to 62 inclusive of the amending Act of 1908, and sections 63 to 65 of that Act shall apply to and in respect of the amounts of the proportions of such cost so apportioned to the respective landholders, the proportions of the instalments which are to be paid by landholders and lessees respectively, and the recovery of the instalments.

Amendments.

15. (1) Section 5 of the amending Act of 1908 is amended by striking out the definitions of "Deputy Surveyor-General" and "Land Board" therein.

Amendment of section 5 of Act 962, 1908.

(2) Subsection (2) of section 6 of the last-mentioned Act is amended so as to read as follows:—

Amendment of section 6 of same Act—

(2) The members of the Assessment Board shall be—

Membership of Assessment Board.

- (a) the Engineer-in-Chief;
- (b) the Surveyor-General;
- (c) an officer of the Public Service, to be from time to time appointed by the Governor; and
- (d) four representative members, who shall be residents of the South-East, to be appointed as hereinafter mentioned.

(3) Section

South-Eastern Drainage Act Further Amendment Act.—1917.

Amendment of section
13 of same Act—

(3) Section 13 of the last-mentioned Act is amended so as to read as follows:—

Government officer
on Board.

13. The officer of the Public Service to be a member of the Assessment Board shall hold office during the Governor's pleasure.

Amendment of
section 7 of the same
Act—

16. (1) Section 7 of the amending Act of 1908 is repealed, and the following provision is hereby enacted and substituted therefor:—

Wards for electing
members of
Assessment Board.

7. For the purpose of electing representative members of the Assessment Board the South-East is hereby divided into four wards, as follows:—

- I. Ward No. 1, comprising the district of the District Council of Lacepede, and the portion of the County of Cardwell defined in the First Schedule to this Act;
- II. Ward No. 2, comprising the districts of the District Councils of Naracoorte and Lucindale;
- III. Ward No. 3, comprising the districts of the District Councils of Robe, Beachport, and Kennion; and
- IV. Ward No. 4, comprising the districts of the District Councils of Penola, Benara, Mount Gambier West, Mount Gambier East, and Port MacDonnell.

(2) All the provisions of sections 8 to 11 inclusive of the amending Act of 1908 relating to members of the Assessment Board shall apply *mutatis mutandis* to the representative members of the Assessment Board provided for by this Act.

Amendment of
section 12 (1) and (2)
of same Act—

17. (1) Subsections (1) and (2) of section 12 of the amending Act of 1908 are amended so as to read as follows:—

Local members to
retire every three
years.

(1) On the first Saturday in July in the year nineteen hundred and twenty two representative members of the Assessment Board, to be determined by the Commissioner by lot, shall retire, and members shall be elected to represent the wards represented by such members, and shall be appointed members of the Assessment Board.

(2) On the first Saturday in July in the year nineteen hundred and twenty-three the representative members of the Drainage Board for the time being representing the wards other than those referred to in subsection (1) of this section shall retire; and so on, alternately as between the members representing the four wards, on the first Saturday in July in every third year two representative members of the said Board shall retire; and upon each such retirement members shall be elected to represent the wards represented by the retiring members, and shall be appointed members of the Assessment Board.

(2) The

South-Eastern Drainage Act Further Amendment Act.—1917.

(2) The members of the Assessment Board in office at the time of the passing of this Act shall retire upon such passing.

18. Section 16 of the amending Act of 1908 is amended by substituting the word "five" for the word "three" in the first line thereof.

Amendment of section 16 of same Act—Quorum.

19. Section 17 of the amending Act of 1908 is amended so as to read as follows:—

Amendment of section 17 of the same Act—

(1) The Governor shall appoint one member of the Assessment Board to be Chairman and one other member to be Deputy Chairman thereof.

Constitution of Board and voting.

(2) The Chairman or the Deputy Chairman when presiding at any meeting of the Board shall have two deliberative votes, and, in the case of equality of votes, the Commissioner shall decide the question at issue, and such decision shall be final.

20. Division I. of Part III. of the amending Act of 1908 is hereby repealed.

Repeal of Act 962, 1908, Part III., Div. I.—Constitution of Drainage Management Board.

21. Section 33 of the amending Act of 1908 is amended—

Amendment of *ibid.*, s. 33.—

(a) by striking out the remainder of the said section after the word "Commissioner" in the fifth line thereof; and

Drains to be maintained to satisfaction of Commissioner.

(b) by adding at the end thereof the following paragraph:—

Where any such drain or drainage work as is referred to in this section is a private drain or work or is situated on private land, the Board and its officers, servants, or agents may, for the purpose of exercising any of the powers of the Board under this section, enter upon any private land and may do all such other matters and things as may be necessary for or incidental to that purpose.

22. Section 34 of the amending Act of 1908 is amended so as to read as follows:—

Amendment of *ibid.*, s. 34—

34. The Commissioner may, out of moneys provided by Parliament for the purpose, upon the recommendation of the Board construct district drains and drainage works.

Commissioner may construct drains.

23. Section 35 of the amending Act of 1908 is hereby repealed.

Repeal of *ibid.*, s. 53.—State advances to Drainage Board.

24. Section 36 of the amending Act of 1908 is amended so as to read as follows:—

Amendment of *ibid.*, s. 36—

36. The Commissioner may, on the recommendation of the Board, connect district drains with main drains.

Commissioner may connect district drains with main drains.

25. Section 37 of the amending Act of 1908 is amended by substituting for the words "Drainage Board" in the second line thereof the word "Commissioner".

Amendment of *ibid.*, s. 37—

26. Section
Superintendence of construction of drains.

South-Eastern Drainage Act Further Amendment Act.—1917.

Amendment of *ibid.*,
s. 43—

Appeal against
assessment for
drainage rates.

26. Section 43 of the amending Act of 1908 is amended—

(a) by inserting after the word “except” in the second line thereof the words “as to appeals against assessments for rates and,” and

(b) by adding at the end thereof the following paragraph:—
“All appeals against assessments for rates under this Part shall be made only to the Board and shall be dealt with by the Board at such times and in such manner as the Board determines, and the decision of the Board on any such appeal shall be final.”

Amendment of *ibid.*,
s. 44—

Application of
drainage rate and
provisions for
maintenance of
drain.

27. Section 44 of the amending Act of 1908 is amended so as to read as follows—

44. (1) The moneys derived from the drainage rate shall be paid to the Treasurer of the State and form part of the General Revenue thereof, and shall be credited to the repayment of the moneys provided by Parliament for the purposes of subsection (2) hereof.

(2) The cost of cleansing, repairing and maintaining drains and drainage works, and expenses connected with the care, control, and management of drains and drainage works, shall be defrayed out of moneys provided by Parliament for the purpose.

Amendment of *ibid.*,
s. 45—

District Councils may
provide money for
drainage purposes.

28. Section 45 of the amending Act of 1908 is amended by substituting for the words “the next preceding section” in the fourth and fifth lines thereof, the words “subsection (2) of section 44 (as substituted by the South-Eastern Drainage Act Further Amendment Act, 1917).”

Amendment of *ibid.*,
s. 48 (2)—

Private drains to be
constructed to
satisfaction of Board.

29. Subsection (2) of section 48 of the amending Act of 1908 is amended—

(a) by substituting the word “Commissioner” for the words “Drainage Board” in the third and fourth lines thereof;

(b) by substituting the words “the Commissioner” for the words “such Board” in the sixth line thereof; and

(c) by substituting the word “Commissioner” for the word “Board” in the seventh line thereof.

Amendment of *ibid.*,
s. 57—

Preliminary
apportionment of cost
of drain.

30. Section 57 of the amending Act of 1908 is amended by adding thereto the following subsection—

(3) Any such apportionment as mentioned in this section which has been made as therein provided after the expiration of the term therein mentioned shall be as valid for all purposes as if it had been made before the expiration of such term:
Provided

South-Eastern Drainage Act Further Amendment Act.—1917.

Provided that the Commissioner may, if in his opinion the delay in making the apportionment has resulted in hardship to any landholder thereby affected, postpone for such period as the Commissioner thinks fit the date from which such landholder is to commence payment of the amount of the proportion of the cost of construction apportioned to him.

31. Section 63 of the amending Act of 1908 is amended by inserting therein after subsection (2) thereof the following subsection—

Amendment of *ibid.*,
s. 63—

(2A) Interest at the rate of Four Pounds per centum per annum shall be paid on the amount of any instalment which remains unpaid for more than six months after the same falls due.

Interest payable on
overdue instalments.

32. Part IV. of the amending Act of 1908 is amended by inserting therein after section 63 thereof the following section—

Amendment of *ibid.*,
Part IV.—

63A. (1) Where after notice of final apportionment any land included in such notice belonging to one and the same landholder is subdivided (whether as the result of a sale or otherwise), and becomes vested in two or more different landholders, the Board shall further apportion between such landholders, the amount by such notice apportioned to such landholder in respect of such land, and fix the yearly instalments to be paid by each of such landholders to the Commissioner and the date upon which the first instalment is to be paid: Provided that in making such apportionment the Board shall take into account the total amount of the instalments (if any) already paid by such landholder.

Provision for
apportionment of cost
of drain where land
charged is subdivided.

(2) The Board shall publish in the *Gazette* a notice setting forth such apportionment, the yearly instalments, and the date upon which the first instalments are to be paid, and such notice shall be conclusive evidence of all matters set forth therein, and of the validity thereof.

(3) The provisions of sections 63, 64, and 65 of the amending Act of 1908 shall apply, *mutatis mutandis*, to and in respect of any amount apportioned under the authority of this section in the same manner as to an amount apportioned under the authority of section 61 of the said Act.

(4) This section shall apply in the case of any one or more further subdivisions beyond that referred to in subsection (1) hereof.

33. Section 4 of the South-Eastern Drainage Scheme Act, 1908, is amended by substituting for the words "Three Hundred Thousand Pounds" in the fifth and sixth lines thereof the words "Four Hundred and Fifty Thousand Pounds."

Amendment of section
4 of Act 963 of 1908—
Limit of expenditure.

*South-Eastern Drainage Act Further Amendment Act.—1917.**Miscellaneous Provisions.*

Lands to be vested in
Commissioner of
Public Works.

34. (1) All land at the time of the passing of this Act vested in the South-Eastern Drainage Management Board is hereby vested, and all other land required for the purposes of any of the Acts incorporated with this Act shall, when acquired, be vested, in the Commissioner of Public Works in his corporate capacity.

Necessary entries to
be made in Register
Books.

(2) The Registrar-General of Deeds shall, from time to time as required, upon production of the appropriate certificates of title or other muniments of title, make any entries in the Register Book or any other book at the Lands Titles Registration Office or the General Registry Office, and on such certificates or other muniments, which may be necessary or proper for evidencing the title of the Commissioner to any lands therein comprised.

Landholder in
benefited area may
connect his private
drains with petition
drain.

35. (1) Any landholder in respect of any lands benefited as declared by the Commissioner's declaration by any drain constructed under Part IV. of the amending Act of 1908 or the corresponding provisions of any Act thereby repealed, which lands are separated from such drain by the land of any other landholder, may, subject to the approval and under the supervision of the Board, connect his private drains or channels with such drain, and for that purpose may construct such private drains or channels across the land of such other landholder.

(2) Any landholder who constructs any private drain or channel across the land of any other landholder under the authority of this section shall be liable to pay to such landholder as compensation for the damage suffered by him in consequence of such construction such sum as the Board thinks reasonable.

Amendment of 962,
1908, s. 5, and 963,
1908, s. 3—
Interpretation.

36. (1) Section 5 of the amending Act of 1908 is further amended, and section 3 of the South-Eastern Drainage Scheme Act, 1908, is amended, by substituting for the definition of "landholder" in each of the said sections the following definition:—

"Landholder" means the owner of any freehold estate in land, the holder of land under agreement with the Crown for the sale of such land upon credit, the lessee of land held under perpetual lease from the Crown, and as to Crown lands unleased or leased on other than perpetual lease, the Commissioner of Crown Lands.

(2) The amendments hereby made shall have the same effect as if they had appeared as hereby enacted in the amending Act of 1908, and in the South-Eastern Drainage Scheme Act, 1908, respectively, on the passing of those Acts.

(3) The Assessment Board shall, by notice published in the *Gazette*, make such alterations of the names of landholders appearing in the notices of their final apportionment of the cost of the construction of any drain as may be necessary to give effect to this section, and such notice shall be conclusive evidence of all matters set forth therein, and of the validity thereof.

(4) Nothing

South-Eastern Drainage Act Further Amendment Act.—1917.

(4) Nothing hereinbefore contained shall affect the liability under section 64 of the amending Act of 1908 of a lessee of land held from the Crown under a lease other than a perpetual lease to pay to the Commissioner of Crown Lands such proportion of each annual instalment payable by the said Commissioner in respect of such land by reason of the amendment hereby made as is payable by a lessee under that section.

37. Notwithstanding that it has been found impracticable to carry out the whole of the scheme authorised as mentioned in the South-Eastern Drainage Scheme Amendment Act, 1910, for the sum therein mentioned—

Provisions
necessitated by excess
of expenditure over
£300,000.

- (a) the drain last-mentioned in the Schedule to the said Act may be constructed as indicated in the said Schedule; and the said drain as so constructed shall be deemed to be one of the drains authorised as mentioned in the said Act to be constructed for the sum therein mentioned, and
- (b) one-half of the cost of construction of the drains and works mentioned in the Schedule to the said Act, and the drainage works connected therewith, shall be repaid to the Commissioner, as provided by the said Act and the Acts incorporated therewith, by all the landholders of the lands benefited by such drains and works and drainage works.

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

H. L. GALWAY, Governor.