



ANNO SEXAGESIMO TERTIO ET SEXAGESIMO  
QUARTO

# VICTORIÆ REGINÆ.

A.D. 1900.

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## No. 737.

An Act to amend the South-Eastern Drainage Acts.

[Assented to, December 5th, 1900.]

**B**E it Enacted by the Governor, with the advice and consent of the Parliament of South Australia, as follows:

1. This Act may be cited as "The South-Eastern Drainage Amendment Act, 1900," and shall be incorporated with "The South-Eastern Drainage Act, 1878," and "The South-Eastern Drainage Act Amendment Act, 1895." Short title and incorporation.

2. In this Act the word "landholder" shall include 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 any land held under lease from the Crown, and, as to unleased Crown lands, the Commissioner of Crown Lands. Definition.

3. A majority of landholders, representing three-fourths in value of the land to be improved by the construction of any of the drains mentioned in Schedule I. hereto, or any other drain which may be recommended by the Engineer-in-Chief, may request the Commissioner to construct any of such drains. Request to construct drain.

In this section "value" means:

- i. As to lands assessed for the purposes of land tax, the unimproved value of such lands as so assessed:
- ii. As to lands not so assessed, the unimproved value of such lands as assessed by the Drainage Assessment Board constituted by this Act.
4. Such

*The South-Eastern Drainage Amendment Act.—1900.*

Form of request.

4. Such request may be in the form in Schedule II. hereto, and each signature thereto shall be witnessed by some person who shall make a declaration before a Justice of the Peace in the form at the end of Schedule II. aforesaid; and any person wilfully making any false statement in such declaration shall be guilty of a misdemeanor, and liable, on conviction, to imprisonment with hard labor for not more than two years.

Commissioner's approval.

5. If the Commissioner approves of the construction of the drain mentioned in the request he shall give notice of such approval in the *Government Gazette*, and shall set out in such notice a definition of the lands to be benefited by such drain, and such notice shall be conclusive evidence of the lands to be benefited. Such notice may be in the form in Schedule III. hereto.

Construction of drain.

6. After the publication of such notice the Commissioner shall proceed with the construction of such drain out of moneys voted by Parliament for the purpose of constructing drains.

Cost to be paid by landholders.

7. The cost of constructing such drain shall be deemed to be an advance from the Commissioner to all landholders of land to be benefited by the construction of such drain, and such advance shall be repaid to the Commissioner by such landholders with interest thereon at the rate of Four Pounds per centum per annum in the proportions to be ascertained as hereinafter mentioned.

Drainage Assessment Board.

8. A Board, called "The Drainage Assessment Board," but hereinafter referred to as "the Board," is hereby constituted, consisting of the Superintending Surveyor, the Deputy Surveyor-General, and the Chairman of the South-Eastern Land Board.

Board to assess benefit.

9. The Board shall, within two years after the completion of the construction of any drain as provided by this Act, make an assessment of the increase in value of the land of each landholder benefited by such drain, arising from the construction of such drain, and shall cause a notice of such assessment to be published in the *Government Gazette*. Such notice may be in the form in Schedule IV. hereto.

Appeal against assessment.

10. Any landholder may within two months after the publication of such notice of assessment appeal against such assessment to the Local Court of Full Jurisdiction nearest to the land assessed.

Such appeal shall be brought by notice to be served on the clerk of the Court and the Board.

Proof of the posting of such notice as a registered letter addressed to the Board shall be sufficient evidence of service of any such notice.

Such notice may be in the form in Schedule V. hereto.

Determination of appeal.

11. Every appeal shall be heard at the first sitting of the Local Court of Full Jurisdiction held not less than seven days after the receipt

*The South-Eastern Drainage Amendment Act.—1900.*

receipt by the clerk of the Court of the notice of appeal, or on such day thereafter as the Local Court shall fix, and the Local Court on the hearing of such appeal may increase or decrease the assessment of the increase in value of the land benefited by the drain, arising from the construction of such drain, and the decision of the Local Court shall be final. A certificate of the decision of the Court, signed by the presiding Special Magistrate, shall be sent by the clerk of the Court to the Board.

**12.** The Board shall forthwith, after the time allowed for appealing has expired if no appeal is pending, or if any appeal is pending then forthwith after the determination of such appeal, apportion the cost of the construction of the drain amongst all landholders whose land has been benefited by the drain in proportion to the increase in value of the land arising from the construction of the drain, and shall cause a notice of such apportionment to be published in the *Government Gazette*.

Board to apportion cost.

**13.** Every notice of the apportionment of the cost of the construction of a drain may be in the form in Schedule VI. hereto, and such notice shall be *prima facie* evidence of the amount of the proportion of the cost to be paid by each landholder mentioned in such notice to the Commissioner, and of the amount of the yearly instalments to be paid to the Commissioner, and of the date on which the first payment will be due.

Notice of apportionment.

**14.** The proportion of the cost apportioned to each landholder shall be a debt due from each such landholder to the Commissioner, and shall be a first charge upon the land of such landholder benefited by the drain, and shall be repaid by such landholder to the Commissioner, with the interest thereon, in forty-two equal yearly instalments, according to the scale set out in Schedule VII. hereto, the first of such instalments to become due on the first day after the expiration of three years from the date of the completion of the drain, and one of such instalments shall fall due on the same day in each year thereafter, until the whole debt has been repaid. The charge upon the land may be enforced by the Commissioner as if he were a mortgagee under "The Real Property Act, 1886": Provided that any landholder may repay the balance due on his land at any time, when his liability shall cease.

Repayment of cost of construction.

**15.** Where the land of any landholder owning a freehold estate in such land is subject to any lease, the lessee of such land shall pay to the landholder during the currency of the lease such proportion of each annual instalment of principal and interest payable by such landholder to the Commissioner as may be agreed.

Private lessees to pay proportion of cost to freeholder

In default of agreement, the amount of such proportion shall be settled by the Board on the application of either the landholder or the lessee.

Either

*The South-Eastern Drainage Amendment Act.—1900.*

Either party may, within one month after the decision, appeal from the decision of the Board to the Local Court of Full Jurisdiction nearest to which the land is situate.

Such appeal shall be brought by notice filed in the Court and served on the opposite party.

The Local Court hearing the appeal may confirm or vary the decision of the Board, and may order either party to pay the costs of such appeal, such costs not to exceed Five Pounds.

**Certificates evidence.**

**16.** A certificate by the Engineer-in-Chief of the cost of the construction of any drain, or the date of the completion of any drain, shall be conclusive evidence of the cost of any such drain or the date of the completion of any such drain, as the case may be.

**Forms.**

**17.** The forms in the Schedules hereto are for guidance only, and may be altered or varied as the case may require, and no notice shall be deemed to be bad or insufficient if the requirements of this Act have been substantially carried out.

**Recovery by distress.**

**18.** In addition, and without prejudice to any other remedy, the Commissioner may recover any instalment due to him from any landholder which shall remain unpaid for three months after the same shall have become due by distress and sale of any goods and chattels on any land upon which the debt due from the landholder to the Commissioner is charged, or such instalment may be recovered in any Court of competent jurisdiction by action in the name of the Commissioner or Minister of the Crown for the time being controlling drainage works from the landholder of such land for the time being, and no statute of limitations shall affect any such action.

**Penalty.**

**19.** Any person wilfully obstructing or damaging any drain constructed under this Act shall be liable to forfeit and pay for every such offence a penalty of not more than Twenty Pounds.

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

TENNYSON, Governor.

*The South-Eastern Drainage Amendment Act.—1900.*

SCHEDULES.

SCHEDULE I.

*List of Drains approved for Construction.*

- (a) Cutting the gap and extension of drain at Mount Hope.
- (b) Five drains in the hundreds of Grey, Monbulla, and Penola.
- (c) Drains in the hundreds of Comaum and Killanoola.
- (d) Draining Garey's Swamp and cutting bars in the watercourses so far as the Western Swamp.
- (e) A cutting about three miles in length in the Reedy Creek, in the hundred of Duffield, to relieve land in the valley of the Reedy Creek, up to Blackford.

The foregoing works are specified in the last report of the Engineer-in-Chief, and are delineated on the plans which accompanied that document.

- (f) Drain from section No. 24, hundred of Ross, to Lake Hawdon.
- (g) Drain from end of the Bray drain on section 66 to section 75, hundred of Bray.
- (h) Drain from section 60, hundred of Symon, through hundreds of Lake George and Bray, to Lake Hawdon.
- (i) Drain in section 69, hundred of Joyce.
- (j) Drain from section 47, hundred of Joyce, to section 13, hundred of Townsend.
- (k) An extension of the Burr Heath drain.

SCHEDULE II.

“The South-Eastern Drainage Amendment Act, 1900.”

*Form of Request to Construct Drain.*

To the Commissioner of Public Works, Adelaide.

We, the undersigned, being a majority of landholders and representing three-fourths in value of the land to be improved by the construction of the drain hereinafter mentioned, hereby request you to construct the drain following, namely [*describe drain*].

The following are the lands which will be benefited by such drain [*here set out sections or blocks and hundreds*].

And we each undertake to pay our proportion of the cost of the construction of such drain at the times and in the manner provided by “The South-Eastern Drainage Amendment Act, 1900.”

The full names, addresses, and occupations of each of us, and particulars of the lands to be benefited by the drain of which we are landholders, is set out below:—

Christian and Surname in full.	Address.	Occupation.	Particulars of Land, giving Section Number and Hundred.

Dated the                      day of                      , 19                      .

Signature.	Signature of Witness.

*Declaration*

*The South-Eastern Drainage Amendment Act.—1900.*

*Declaration by Witness.*

I solemnly and sincerely declare that the signatures to the above request, opposite to which my name is signed, are the genuine signatures of the persons whose signatures they purport to be.

Declared before me at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.  
 [Signature of Witness.]  
 \_\_\_\_\_, Justice of the Peace.

SCHEDULE III.

“The South-Eastern Drainage Amendment Act, 1900.”

*Notice of Approval of Request to Construct Drain.*

I \_\_\_\_\_, Commissioner of Public Works for South Australia, do hereby approve of the request of landholders for the construction of [describe drain].

The lands to be benefited by the construction of the said drain are [here set out lands].

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.  
 \_\_\_\_\_, Commissioner of Public Works.

SCHEDULE IV.

“The South Eastern Drainage Amendment Act, 1900.”

*Notice of Assessment.*

The Drainage Assessment Board has made an assessment of the increase in value of the lands benefited by the construction of [here describe the drain] arising from the construction of such drain. Such assessment is as follows:—

Name of Landholder.	Sections or Block, and Hundred.	Increase in Value of Land.
		£ s. d.
John Smith .....	94, Grey	25 0 0
William Jones .....	110, Grey	50 0 0

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 1900.

..... }  
 ..... } Members of the  
 ..... } Drainage Assessment  
 Board.

SCHEDULE V.

“The South-Eastern Drainage Amendment Act, 1900.”

*Notice of Appeal.*

To the Drainage Assessment Board and to the Clerk of the Local Court of [name of court].

Take notice that I appeal to the Local Court of [name of court] of Full Jurisdiction against the assessment of the increase in value of my land being [set out sections or

*The South-Eastern Drainage Amendment Act.—1900.*

*or blocks and hundred*] arising from the construction of the [*here describe drain by a name it is known by, or otherwise, shortly sufficient to identify it*] on the ground that such value is assessed too highly.

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.  
 [Signature of appellant. ]  
 [Address and occupation.]

SCHEDULE VI.

“The South-Eastern Drainage Amendment Act, 1900.”

*Notice of apportionment of the cost of constructing the* [describe drain].

Name of Landholder.	Section and Hundred.	Increase in Value arising from the Construction of Drain.			Proportion of Cost to be borne by each Landholder.			Amount of Annual Instalments to be paid by each Landholder.			Date when First Instalment becomes Due.
		£	s.	d.	£	s.	d.	£	s.	d.	
John Smith....	94, Grey	50	0	0	25	0	0	1	7	10½	June 1st, 1903
William Jones..	110, Grey	100	0	0	50	0	0	2	15	9	June 1st, 1903

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.  
 ..... } Members of the  
 ..... } Drainage Assessment  
 ..... } Board.

SCHEDULE VII.

*Scale showing Amount of Instalments to Repay £100 with Interest at 4 per cent. in Forty-two Annual instalments, commencing Three Years after the Date of the Advance. The Interest for the First Three years to be Capitalised.*

Annual instalment ..... £ s. d.  
 ..... 5 11 6