

# BILL

No. 162

## An Act to Promote, Develop and Sustain Irrigation and to make consequential amendments to certain Acts

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(Assented to \_\_\_\_\_)

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

PART 1  
**Preliminary Matters**

**Short title**

1-1 This Act may be cited as *The Irrigation Act, 2018*.

**Definitions**

1-2 In this Act:

“**Crown**” means the Crown in right of Saskatchewan;

“**district board**” means the board of an irrigation district;

“**district consumer**” means a person who has an existing water service agreement with an irrigation district to receive irrigation services from the irrigation district;

“**ICDC**” means the Irrigation Crop Diversification Corporation continued pursuant to section 5-1;

“**Indian band**” means a band within the meaning of the *Indian Act* (Canada), and includes the council of a band;

“**intensive irrigator**” means a person who:

- (a) owns or controls land that receives a prescribed allocation of water from the Crown for irrigation purposes;
- (b) is not restricted as to when the prescribed allocation of water may be applied; and
- (c) does not have an existing water service agreement with an irrigation district with respect to the land mentioned in clause (a);

“**irrigation certificate**” means an irrigation certificate issued pursuant to section 3-2 and includes a special irrigation certificate mentioned in section 7-5;

“**irrigation district**” means an irrigation district established pursuant to section 2-2 and includes an irrigation district continued pursuant to section 7-2;

“**irrigation services**” includes water supply, water disposal and educational services respecting irrigation, but does not include disposal of effluents;

“**irrigation works**” means:

- (a) the facilities used in the operation of an irrigation district, including dykes, dams, weirs, drains, ditches, canals, pipelines, culverts, pipes, pumps, pump stations, water control works, water supply works and any other thing, and the land on which the irrigation works are located; and
- (b) any works prescribed as irrigation works;

“**minister**” means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

“**ministry**” means the ministry over which the minister presides;

“**person**” includes a partnership, association, Indian band or other organization;

“**prescribed**” means prescribed in the regulations;

**“Saskatchewan Water Corporation”** means the Saskatchewan Water Corporation continued pursuant to subsection 3(1) of *The Saskatchewan Water Corporation Act*;

**“water rights licence”** means a licence issued by the Water Security Agency to an irrigation district, an intensive irrigator or any other prescribed person that provides authority:

- (a) in the case of an irrigation district, to supply water for irrigation purposes;
- (b) in the case of an intensive irrigator or other prescribed person, to utilize water for irrigation purposes;

**“Water Security Agency”** means the Water Security Agency continued pursuant to subsection 3(1) of *The Water Security Agency Act*;

**“water service agreement”** means a water service agreement between an irrigation district and a person who is to receive irrigation services that has been entered into pursuant to section 3-5;

**“water service charge”** means the amount charged by an irrigation district to a district consumer for providing irrigation services;

**“works use agreement”** means an agreement that authorizes an irrigation district to utilize irrigation works owned by the Crown.

#### **Purposes of Act**

**1-3** The purposes of this Act include the development of a profitable and sustainable irrigation sector in Saskatchewan.

#### **Minister’s powers**

**1-4(1)** Subject to subsection (2), the minister may:

- (a) provide educational and technical services respecting irrigation;
- (b) provide financial assistance by way of grant, loan, loan guarantee or other means to any irrigation district, person or body in Saskatchewan for all or any of the following purposes:
  - (i) supporting and developing the irrigation industry;
  - (ii) planning, developing, financing, constructing, operating, repairing, controlling, maintaining, altering, improving, extending, abandoning, removing or decommissioning irrigation works;
  - (iii) researching and promoting on-farm irrigation;
  - (iv) assisting with the removal of irrigation services from land no longer suitable for irrigation; and
- (c) enter into agreements with any person or body, the Government of Canada or the government of any other province or jurisdiction of Canada:
  - (i) respecting the construction, operation, maintenance, rehabilitation, replacement, expansion, management and administration of irrigation works;
  - (ii) respecting the development or promotion of irrigation; and
  - (iii) for any other purpose related to the administration of this Act or to fulfilling the purposes of this Act.

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- (2) The minister shall obtain the prior approval of the Lieutenant Governor in Council before providing any financial assistance pursuant to clause (1)(b) or entering into an agreement pursuant to clause (1)(c) pursuant to which the minister would incur an expense of more than the prescribed amount.
- (3) The Crown may own, construct, acquire, transfer, establish, maintain, replace, decommission, dispose of or operate irrigation works.
- (4) The minister may transfer ownership of irrigation works from the Crown to an irrigation district if:
- (a) the irrigation district requests the transfer of ownership from the Crown; and
  - (b) subject to the approval of the Lieutenant Governor in Council, in the minister's opinion, it is in the public interest to transfer ownership.
- (5) Subject to subsection (6) and the approval of the Lieutenant Governor in Council, the minister, on the minister's own initiative, may transfer ownership of irrigation works from the Crown to an irrigation district if, in the minister's opinion, it is in the public interest to transfer ownership.
- (6) Before transferring ownership of irrigation works to an irrigation district pursuant to subsection (5), the minister shall consult with:
- (a) the district board; and
  - (b) any other persons that the minister considers appropriate.
- (7) On transferring ownership of irrigation works to an irrigation district, the minister may impose any terms and conditions that the minister considers appropriate, including terms and conditions:
- (a) restricting the subsequent transfer of the irrigation works or any interest in the irrigation works;
  - (b) restricting the encumbrance of the irrigation works;
  - (c) specifying contractual responsibilities of the irrigation district; and
  - (d) specifying distribution of assets on the winding-up of an irrigation district.
- (8) No irrigation district shall fail to comply with any terms or conditions imposed pursuant to subsection (7).

## PART 2

### Irrigation Districts

#### Application to establish irrigation district

**2-1** A person who wishes to establish an irrigation district shall:

- (a) apply to the minister in any manner that the minister considers appropriate; and
- (b) supply the minister with any information the minister may require respecting the application.

**Establishment of irrigation district**

**2-2(1)** On receipt of an application pursuant to section 2-1, the minister may, by order, establish the irrigation district if the minister considers it appropriate having regard to the following factors:

- (a) whether establishing an irrigation district is in the best interests of the applicant and other landowners in the area served by the proposed irrigation district;
  - (b) whether the proposed irrigation services to be offered by the irrigation district are in the best interests of:
    - (i) water utilization, preservation of water quality and long-term water use in the proposed irrigation district; and
    - (ii) economic diversification of the proposed irrigation district.
- (2) The minister, on the minister's own initiative, may, by order, establish an irrigation district.
- (3) Before establishing an irrigation district in accordance with subsection (2), the minister shall consult with:
- (a) the landowners in the proposed irrigation district; and
  - (b) any other persons that the minister considers appropriate.

**Order establishing irrigation district**

**2-3(1)** Every order establishing an irrigation district is to include:

- (a) the name and number of the irrigation district; and
  - (b) a description of the area to be served by the irrigation district.
- (2) The name of the irrigation district is to be "The (*name assigned by the minister*) Irrigation District, Inc."

**Publication of notice**

**2-4** Within 60 days after the date on which an irrigation district is established pursuant to section 2-2, the minister shall publish a notice in the Gazette that sets out:

- (a) the name and number of the irrigation district; and
- (b) the date on which the irrigation district was established.

**Irrigation district is a corporation**

**2-5** Every irrigation district is a corporation.

**Irrigation district not an agent of the Crown**

**2-6** An irrigation district is not an agent of the Crown.

**Members of irrigation district**

2-7(1) Every district consumer in the irrigation district is a member of the irrigation district.

(2) Every member has the right:

- (a) to receive notice of and to appear at and vote at annual and special meetings of members; and
- (b) to obtain a copy of the irrigation district's financial statements and annual reports.

**Meetings**

2-8(1) An irrigation district shall hold at least 1 general meeting of its members in each fiscal year at a time and place designated by the chairperson of the district board.

(2) The chairperson shall call a special meeting of the members of the irrigation district on receipt of a written request specifying the purpose for the meeting signed by at least 25% of the members.

**Mandate and purposes**

2-9 The mandate and purposes of an irrigation district are:

- (a) to offer irrigation services to its district consumers in the irrigation district;
- (b) to promote irrigation services and the public utilization of irrigation works in the irrigation district;
- (c) to cooperate with other irrigation districts, the minister and ICDC in promoting sustainable irrigation in Saskatchewan;
- (d) to use the facilities, equipment and expertise of the irrigation district to maintain and promote the economic viability of the irrigation district; and
- (e) to own, construct, acquire, establish, maintain, operate, replace and decommission irrigation works.

**Powers**

2-10 In carrying out its mandate and fulfilling its purposes, an irrigation district may:

- (a) enter into any agreement with the minister, the Water Security Agency or any person, agency, government or organization for any purpose related to:
  - (i) the exercise of the powers of the irrigation district; or
  - (ii) the carrying out of any element of the irrigation district's mandate and purposes;
- (b) provide irrigation services to its district consumers in the irrigation district;
- (c) subject to the other provisions of this Act and to *The Water Security Agency Act*, construct, acquire, establish, maintain, operate, replace and decommission irrigation works in the irrigation district;
- (d) acquire electrical or other power required to maintain and operate its irrigation works in the irrigation district;
- (e) subject to section 2-14, establish and collect water service charges;

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- (f) acquire any moneys or property necessary for or related to its mandate and purposes;
  - (g) subject to any terms and conditions imposed pursuant to subsection 1-4(7), dispose of any of its property that it no longer requires in any manner and on any terms and conditions that it considers appropriate;
  - (h) manage, improve, cultivate and maintain any agricultural land that it owns or leases;
  - (i) employ any staff that it considers necessary and determine the salary, duties and conditions of employment of its staff;
  - (j) provide services to any person on a commercial basis using the facilities, equipment or expertise of the irrigation district, and charge fees for those services;
  - (k) subject to *The Water Security Agency Act* and to the Water Security Agency's approval, enter into an agreement with any person for the transmittal of water for non-irrigation purposes;
  - (l) enter into agreements with another irrigation district for the purpose of amending the area served by the irrigation district;
  - (m) do and authorize the doing of any other thing that it considers necessary, incidental or conducive to carrying out its mandate and fulfilling its purposes.

**Head office**

**2-11** Every irrigation district shall maintain its head office within the area served by the irrigation district or in reasonable proximity to the area served by the irrigation district.

**Investment**

**2-12** The irrigation district may:

- (a) invest any part of the capital or operating moneys of the irrigation district in any security or class of securities authorized for investment of moneys in the general revenue fund pursuant to *The Financial Administration Act, 1993*; and
- (b) dispose of any investments made pursuant to clause (a) in any manner, on any terms and in any amount that the irrigation district considers appropriate.

**Borrowing powers**

**2-13(1)** An irrigation district may borrow any sums of money that it requires for its purposes.

- (2) An irrigation district may provide any guarantee or security that it considers appropriate respecting a loan.
- (3) All borrowings pursuant to this section are to be from a bank, trust company or credit union or from any other prescribed entity or class of entities.
- (4) No loan made pursuant to this section is to be guaranteed by the Minister of Finance, and the Government of Saskatchewan is not liable for the repayment of that loan or any interest, principal or premium respecting that loan.

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**Establishment and approval of water service charges**

**2-14(1)** Every irrigation district shall do the things required by this section for each fiscal year.

(2) On or before the beginning of its fiscal year, an irrigation district shall prepare an estimate of its total costs for the fiscal year, including:

- (a) its administrative costs for the irrigation district;
- (b) its costs of diverting, pumping, supplying, distributing and draining water, including any charges payable by the irrigation district pursuant to any Act for obtaining water or for the right to use water;
- (c) the costs of maintaining its irrigation works;
- (d) any amounts that it requires to recover any losses in the previous fiscal year;
- (e) any amounts that it is required to collect pursuant to section 4-1 for the purposes of its irrigation replacement fund;
- (f) the amount of any charges it is required to pay to ICDC; and
- (g) any other prescribed costs.

(3) An irrigation district shall establish water service charges that are sufficient to cover its total costs in the fiscal year.

(4) In establishing its water service charges, an irrigation district shall take account of:

- (a) the costs of collecting water service charges;
- (b) an allowance for potential losses in collecting water service charges;
- (c) any revenues, other than water service charges, that the irrigation district is to receive in the fiscal year;
- (d) any amounts that it chooses to allocate from surpluses in previous years; and
- (e) any other prescribed factors.

(5) If requested by the minister to do so, on or before the date set by the minister, an irrigation district shall provide to the minister:

- (a) the estimate of its total costs for the fiscal year;
- (b) its proposed water service charges for the fiscal year; and
- (c) any other information respecting its expenses, revenues or water service charges that the minister may require.

(6) No irrigation district shall levy any water service charges until the charges are approved by the district board.

**Fiscal year**

**2-15** Subject to the regulations, the fiscal year of an irrigation district is the period of 12 months determined by the district board.



**Audit**

**2-16(1)** In this section and in sections 2-17 and 5-12, “**auditor**” means a person who is, or, in the case of a firm of accountants, a firm at least 1 of whose partners is, a member in good standing of a recognized accounting profession that is regulated by an Act.

(2) Subject to the regulations, an irrigation district shall appoint an auditor who shall audit the irrigation district’s records, accounts and financial statements:

- (a) in accordance with a schedule set by the minister;
- (b) if no schedule is set pursuant to clause (a), annually; and
- (c) at any other times the irrigation district or the minister may direct.

(3) An irrigation district shall appoint as auditor a person who is independent of the irrigation district.

(4) If the irrigation district does not appoint an auditor, it shall authorize its financial statements in the prescribed manner.

**Annual report**

**2-17(1)** Within 120 days following the end of its fiscal year, an irrigation district shall:

- (a) prepare an annual report for the minister, in any form that may be required by the minister, respecting the irrigation district’s business and affairs and the status of its irrigation replacement fund during the fiscal year; and
- (b) forward to the minister the annual report and:
  - (i) if the irrigation district has appointed an auditor, its audited financial statements; or
  - (ii) if the irrigation district has not appointed an auditor, its duly authorized financial statements.

(2) An irrigation district shall:

- (a) keep its annual reports and audited or duly authorized financial statements available for public inspection during normal office hours of the irrigation district; and
- (b) if the irrigation district has a website, post its annual reports and audited or duly authorized financial statements on its website.

**Amalgamation**

**2-18(1)** Two or more irrigation districts may apply to the minister to amalgamate.

(2) On receipt of an application pursuant to subsection (1), the minister may approve or refuse the amalgamation based on the prescribed criteria.

(3) If the minister refuses an application to amalgamate pursuant to subsection (2), the minister shall provide the applicants with written reasons for the refusal.

(4) An amalgamation is to be conducted in accordance with the regulations.

(5) Within 60 days after an amalgamation, the minister shall:

- (a) publish a notice of the amalgamation in the Gazette; and
- (b) post the notice of amalgamation on the ministry website.

**Winding-up of irrigation district**

- 2-19(1)** An irrigation district may apply to the minister to be voluntarily wound up.
- (2) The minister, on the minister's own initiative, may wind up an irrigation district if:
- (a) the irrigation district fails to comply with this Act or the regulations;
  - (b) the irrigation district has ceased to carry on business; or
  - (c) in the minister's opinion:
    - (i) it is necessary to protect the water resource;
    - (ii) the continuation of the irrigation district is not economically viable; or
    - (iii) it is otherwise in the public interest to wind up the irrigation district.
- (3) The minister shall not wind up an irrigation district pursuant to clause (2)(a) or (c) without providing the district board affected with:
- (a) written notice of the minister's intended action and the reasons for that intended action; and
  - (b) an opportunity to be heard.
- (4) After considering any representations made pursuant to subsection (3), the minister shall issue a written decision and shall serve a copy of the decision on the district board.
- (5) Notwithstanding subsection (3), if the minister considers that it is necessary to protect the public interest, the minister may immediately take the action mentioned in subsection (2) without giving the district board an opportunity to be heard, but the minister shall give the district board an opportunity to be heard within 30 days after the date on which the minister takes the action.
- (6) If an irrigation district is wound up, the winding-up is to be conducted in accordance with the regulations.
- (7) Within 60 days after winding up an irrigation district, the minister shall publish a notice of the winding-up in the Gazette.

**Composition of district board**

- 2-20(1)** Subject to subsection (2), a district board consists of those members of the irrigation district who are elected by the members of the irrigation district in the manner set out in the irrigation district's bylaws.
- (2) The minister, in accordance with the regulations, may appoint 1 individual member of the public or a member of the public service who is not a member of the irrigation district to the district board.
- (3) The member appointed pursuant to subsection (2) is entitled to reimbursement for the member's expenses at the rates approved for members of the public service of Saskatchewan and, except in the case of a member who is also a member of the public service of Saskatchewan, for remuneration at the rates approved by Treasury Board.
- (4) The minister shall pay the amounts mentioned in subsection (3).
- (5) The persons who applied to establish the irrigation district are the initial members of the district board.

(6) If the minister establishes the irrigation district pursuant to subsection 2-2(2), the minister shall name the initial members of the district board.

(7) The district board shall direct the business and affairs of the irrigation district.

(8) A board member, other than one appointed pursuant to subsection (2), is entitled to be reimbursed by the irrigation district for the board member's reasonable expenses if:

(a) the board member submits a statement to the district board detailing the expenses; and

(b) the district board is satisfied that the expenses are reasonable and were incurred for the purposes of attending to the business of the irrigation district.

#### **Officers**

**2-21**(1) A district board shall choose from its members:

(a) a chairperson; and

(b) a vice-chairperson.

(2) If the chairperson is absent or unable to act or the office of chairperson is vacant, the vice-chairperson may exercise all the powers and shall perform all the duties of the chairperson.

(3) A district board may appoint other officers from its members.

#### **Bylaws**

**2-22**(1) A district board may make bylaws respecting:

(a) the voting rights of members;

(b) the election of the district board;

(c) the area in which it provides irrigation services;

(d) its own procedures; and

(e) the management and business of the irrigation district.

(2) Bylaws made or amended by a district board remain in effect until amended or revoked by the members of the irrigation district.

(3) A district board shall:

(a) keep a copy of all its bylaws available for public inspection at its head office during normal office hours;

(b) provide to the minister a copy of each bylaw and amendment made by the district board; and

(c) if the district board has a website, post its bylaws on its website.

#### **Quorum**

**2-23** The quorum of a district board is a majority of the members then in office.

**Committees**

**2-24** A district board may:

- (a) appoint any committee that it considers necessary for the efficient conduct of the business and affairs of the irrigation district;
- (b) specify the duties of any committee it appoints; and
- (c) fix the allowances for expenses of members of any committee it appoints.

**Governance**

**2-25** A district board shall govern itself in accordance with this Act, any regulations made pursuant to this Act, and its bylaws.

**PART 3****Irrigation Services****Irrigation services—irrigation district**

**3-1(1)** Before an irrigation district uses irrigation works, it must have:

- (a) all licences and approvals required by the Water Security Agency pursuant to *The Water Security Agency Act*; and
- (b) if the irrigation works are owned by the Crown:
  - (i) a water supply contract with the Saskatchewan Water Corporation that was in existence before the coming into force of this Act; or
  - (ii) a works use agreement with the minister respecting the operation, maintenance and replacement of those irrigation works.

(2) No person shall obtain irrigation services from an irrigation district and no irrigation district shall supply irrigation services to a person unless:

- (a) that person:
  - (i) is the owner of the land to be irrigated or has obtained the written consent of the owner to the irrigation services; and
  - (ii) has a water service agreement with the irrigation district; and
- (b) the minister has issued an irrigation certificate for the land that is to be irrigated.

**Application for and issuance of irrigation certificate**

**3-2(1)** Every person who intends to irrigate using the prescribed allocation of water shall obtain an irrigation certificate with respect to the land to be developed for irrigation, and shall:

- (a) if that person is not the owner of the land, obtain the written consent of the owner to the irrigation services;
- (b) apply to the minister in a form and manner satisfactory to the minister; and
- (c) pay the prescribed fee.

(2) On receipt of an application pursuant to subsection (1), the minister shall determine whether:

- (a) the land that is the subject of the application is suitable for irrigation; and
- (b) any damage to other lands will be caused by irrigating that land.

(3) If the minister is satisfied that it is appropriate to do so based on the criteria mentioned in subsection (2), the minister may issue an irrigation certificate for the land that is the subject of the application, on any terms and conditions that the minister considers appropriate.

(4) The minister or the landowner may register an interest based on that irrigation certificate against title to the land in the Land Titles Registry.

(5) If an interest based on an irrigation certificate is registered pursuant to subsection (4), in addition to having the effect of registration set out in *The Land Titles Act, 2000*, the irrigation certificate and the terms and conditions set out in the irrigation certificate run with the land and are binding on:

- (a) the registered owner of the land against which the irrigation certificate is registered;
- (b) any person who acquires an interest in the land subsequent to the registration of the interest based on the irrigation certificate; and
- (c) any person who from time to time conducts irrigation on the land.

(6) The registration of an interest based on an irrigation certificate is not subject to lapse pursuant to section 63 of *The Land Titles Act, 2000*.

#### **Terms and conditions on irrigation certificates**

**3-3(1)** When issuing or renewing an irrigation certificate or at any subsequent time, the minister may impose any terms and conditions that the minister considers appropriate.

(2) No person conducting irrigation on land that is subject to an irrigation certificate shall fail to comply with any term or condition imposed on the irrigation certificate.

#### **Cancellation of irrigation certificate**

**3-4(1)** The minister may cancel an irrigation certificate if, in the minister's opinion:

- (a) the land for which the irrigation certificate has been issued is no longer suitable for irrigation;
- (b) the operation of the irrigation works on the land for which the irrigation certificate has been issued is causing damage to other lands;
- (c) any person fails to comply with this Act or the regulations in relation to the land for which the irrigation certificate was issued or with any term or condition of the irrigation certificate; or
- (d) it is necessary to protect the water resource or it is otherwise no longer in the public interest for the land for which an irrigation certificate has been issued to be certified for irrigation purposes.

(2) The minister shall not cancel an irrigation certificate without giving an opportunity to be heard to the following:

- (a) the person to whom the irrigation certificate was issued;
- (b) if the person mentioned in clause (a) is not the owner of the land for which the irrigation certificate was issued, the owner of the land;
- (c) any other person whom the minister considers affected by the proposed cancellation.

(3) If the minister has registered an interest in the Land Titles Registry based on an irrigation certificate and the minister cancels the irrigation certificate, the minister shall apply to the Land Titles Registry to discharge the registration of that interest.

#### **Water service agreements**

**3-5(1)** Every water service agreement with an irrigation district is to set out:

- (a) the irrigation services to be provided by the irrigation district;
- (b) the consent of the owner of the land to the irrigation services, if the person who is to receive irrigation services is not the owner; and
- (c) any other provisions that the irrigation district and the person who is to receive irrigation services agree on and that are not inconsistent with this Act, the regulations or any terms and conditions imposed on the irrigation certificate issued for the land being irrigated or to be irrigated.

(2) An irrigation district shall use only the form of water service agreement that has been approved by the minister.

#### **Water service master record**

**3-6(1)** Every irrigation district shall maintain at its head office a water service master record that sets out, for each district consumer:

- (a) the type of water service charges the district consumer is required to pay to the irrigation district;
- (b) the irrigation services to be provided to the district consumer; and
- (c) any other prescribed information.

(2) An irrigation district shall:

- (a) keep its water service master record available for public inspection at its head office during normal office hours of the irrigation district; and
- (b) if the irrigation district has a website, post its water service master record on its website.

#### **Payment of water service charges**

**3-7(1)** Every district consumer who receives irrigation services shall pay the required water service charges for those irrigation services.

(2) All water service charges payable by a district consumer are a debt due to the irrigation district.

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(3) If a district consumer fails to pay the required water service charges, the irrigation district may do one or both of the following:

- (a) terminate irrigation services to, and suspend or cancel any water service agreement with, the district consumer;
- (b) bring an action in a court of competent jurisdiction to recover the water service charges that are due.

(4) If the district board considers that hardship or injustice would otherwise arise, the district board may relieve any district consumer from paying all or any part of the water service charges otherwise payable by that district consumer.

(5) If an irrigation district brings an action in a court of competent jurisdiction to recover the water service charges, an entry in the irrigation district's water service master record respecting the amount of the water service charges due is admissible in evidence as proof, in the absence of evidence to the contrary, of the amount of water service charges due.

(6) Water service charges are deemed to be taxes for the purposes of *The Tax Enforcement Act* and, in addition to any other remedy the irrigation district may have for collecting water service charges, the irrigation district has all the rights and responsibilities for the collection of arrears of water service charges as are set out in that Act or the regulations made pursuant to that Act for a rural municipality and its officers for the collection of arrears of taxes.

#### **Termination of irrigation services**

**3-8(1)** The minister may direct an irrigation district to terminate irrigation services to a district consumer if the minister considers that:

- (a) the land that is receiving the irrigation services is not suitable for irrigation; or
- (b) damage to other lands is being caused by irrigating that land.

(2) The minister shall not issue a direction pursuant to subsection (1) without giving the irrigation district and the district consumers affected an opportunity to be heard.

(3) No district consumer and no irrigation district shall fail to comply with a direction of the minister pursuant to this section.

#### **Areas not served by irrigation districts**

**3-9(1)** No person shall irrigate land in an area not served by an irrigation district without:

- (a) ensuring that the minister has issued an irrigation certificate for the land being irrigated or to be irrigated; and
- (b) having been issued a water rights licence with respect to that land.

(2) The minister may require a person to cease irrigating if the minister considers that:

- (a) the land that is being irrigated is not suitable for irrigation; or
- (b) irrigating that land is causing damage to other lands.

(3) The minister shall not require a person to cease irrigating pursuant to subsection (2) without giving the person affected an opportunity to be heard.

(4) No person who has been required by the minister to cease irrigating any land pursuant to subsection (2) shall continue to irrigate that land.

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PART 4

**Irrigation Replacement Funds and Irrigation Works  
Management Plans**

**Irrigation replacement funds and irrigation works management plans**

**4-1(1)** Subject to the regulations, every irrigation district shall:

- (a) establish an irrigation replacement fund that is sufficient for the purpose of renewing and replacing its irrigation works;
- (b) establish an irrigation works management plan for the renewal and replacement of its irrigation works based on the projected useful life of the irrigation works, and submit the plan to the minister;
- (c) based on the irrigation works management plan, levy on district consumers, on an annual basis, an amount to be deposited into the irrigation replacement fund that will be sufficient to renew or replace those works when necessary;
- (d) adhere to the irrigation works management plan; and
- (e) report any changes or amendments to the irrigation works management plan to the minister.

(2) Every irrigation district shall keep the moneys in its irrigation replacement fund separate from its other moneys and may use the moneys in its irrigation replacement fund only for the purpose of renewing, replacing or decommissioning its irrigation works.

**Moneys in irrigation replacement fund**

**4-2** An irrigation replacement fund consists of:

- (a) moneys paid into it by the irrigation district, including moneys to be paid from the portion of the irrigation district's water service charges that are for the irrigation replacement fund;
- (b) moneys earned from investments of the irrigation replacement fund; and
- (c) any grants provided for the purpose of renewing, replacing or decommissioning irrigation works received from the Government of Saskatchewan, the Government of Canada, the government of another province or territory of Canada or any other person, agency, organization, association, institution or body.

PART 5

**Irrigation Crop Diversification Corporation**

**ICDC continued**

**5-1(1)** The Irrigation Crop Diversification Corporation established pursuant to *The Irrigation Act, 1996* is continued as a corporation.

(2) ICDC is the abbreviated name of the Irrigation Crop Diversification Corporation and the abbreviation when used has the same legal effect and meaning as the full name of the Irrigation Crop Diversification Corporation.

**ICDC not an agent of the Crown**

**5-2** ICDC is not an agent of the Crown.



**Members**

**5-3** Subject to the regulations, the membership of ICDC is composed of all district consumers, all intensive irrigators and any other prescribed persons.

**Mandate and purposes of ICDC**

**5-4** The mandate and purposes of ICDC are the following:

- (a) to research, demonstrate and promote to producers and irrigation districts profitable and sustainable agronomic practices for irrigated crops;
- (b) to develop or assist in developing varieties of crops suitable for irrigated conditions;
- (c) to provide access to property and facilities and technical support to researchers to conduct research into irrigation technology, cropping systems and soil and water conservation measures under irrigation and to provide information respecting that research to district consumers, irrigation districts, intensive irrigators, other prescribed persons and the public;
- (d) to cooperate with the minister in promoting and developing sustainable irrigation in Saskatchewan.

**Powers of ICDC**

**5-5** In carrying out its mandate and fulfilling its purposes, ICDC may:

- (a) receive and deposit funds from any person, agency, government or organization;
- (b) enter into any agreements with the minister or any person, agency, government or organization for any purpose related to:
  - (i) the exercise of the powers of ICDC; or
  - (ii) the carrying out of any element of ICDC's mandate and purposes;
- (c) engage the services of or retain any technical, professional or other advisers, specialists, consultants or other staff that ICDC considers necessary respecting its mandate and purposes and powers, and pay their reasonable fees and expenses;
- (d) acquire any property that is necessary for or related to its mandate and purposes;
- (e) dispose of any of its property that it no longer requires in any manner and on any terms and conditions that it considers appropriate;
- (f) subject to sections 5-14 and 5-15, impose annual charges that it considers appropriate for the services it provides;
- (g) require information from irrigation districts, intensive irrigators, other prescribed persons and the ministry in order to meet the mandate and purposes of ICDC;
- (h) do all of the things that ICDC considers necessary, incidental or conducive to meeting its mandate and purposes or to exercising its powers.

**Head office**

**5-6** ICDC shall maintain its head office within Saskatchewan.

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**Board of ICDC**

**5-7(1)** A board of directors shall manage the affairs and business of ICDC.

- (2) Subject to subsection (3), the board is composed of the following members:
  - (a) those employees of the ministry appointed by the minister in accordance with the regulations;
  - (b) any other members who are district consumers, intensive irrigators or other prescribed persons and who are appointed or elected in accordance with the regulations.
- (3) A member appointed pursuant to clause (2)(a) is entitled to reimbursement for the member's expenses at the rates approved for members of the public service of Saskatchewan.
- (4) The minister shall pay the amounts mentioned in subsection (3).
- (5) A majority of the members of the board must be district consumers, intensive irrigators or other prescribed persons or a combination of district consumers, intensive irrigators and other prescribed persons.
- (6) If a member of the board appointed pursuant to clause (2)(a) is absent or unable to perform the member's duties on the board, the minister may appoint a person to act as a temporary member of the board during the other member's absence or disability.
- (7) The board shall choose from its members other than those appointed pursuant to clause (2)(a):
  - (a) a chairperson; and
  - (b) a vice-chairperson.
- (8) If the chairperson is absent or unable to act or the office of chairperson is vacant, the vice-chairperson may exercise all the powers and shall perform all the duties of the chairperson.
- (9) The chairperson shall:
  - (a) preside over all meetings of the board; and
  - (b) perform all the duties that may be imposed on, and may exercise all the powers that may be assigned to, the chairperson by resolution of the board.
- (10) If the chairperson and the vice-chairperson are absent or unable to act at a meeting, the board members who are present may choose another member to act as chairperson for the purposes of that meeting.
- (11) The quorum of the board is a majority of the board members then in office.
- (12) A board member, other than one appointed pursuant to clause (2)(a), is entitled to be reimbursed by ICDC for the board member's reasonable expenses if:
  - (a) the board member submits a statement to the board detailing the expenses; and
  - (b) the board is satisfied that the expenses are reasonable and were incurred for the purposes of attending to the business of ICDC.
- (13) A board member, other than one appointed pursuant to clause (2)(a), is entitled to remuneration at a rate fixed by ICDC.

**Committees**

**5-8** The board may:

- (a) appoint any committee that it considers necessary for the efficient conduct of the business and affairs of ICDC;
- (b) specify the duties of any committee it appoints; and
- (c) fix the allowances for expenses of members of any committee it appoints.

**Bylaws**

**5-9(1)** The board may make bylaws respecting:

- (a) its own procedures;
  - (b) the management and business of ICDC.
- (2) Any bylaws made or amended by the board remain in effect until amended or revoked by the members of ICDC.
- (3) ICDC shall:
- (a) keep a copy of all its bylaws available for public inspection at its head office during normal business hours of ICDC; and
  - (b) post its bylaws on its website.

**Fiscal year**

**5-10** Subject to the regulations, the fiscal year for ICDC is the period of 12 months designated pursuant to the bylaws.

**Investment**

**5-11** ICDC may:

- (a) invest any part of the capital or operating moneys of ICDC in any security or class of securities authorized for investment of moneys in the general revenue fund pursuant to *The Financial Administration Act, 1993*; and
- (b) dispose of any investments made pursuant to clause (a) in any manner, on any terms and in any amount that ICDC considers appropriate.

**Audit**

**5-12(1)** ICDC shall appoint an auditor who shall audit ICDC's records, accounts and financial statements:

- (a) annually; and
  - (b) at any other times that ICDC or the minister may direct.
- (2) ICDC shall appoint as an auditor a person who is independent of ICDC.

**Annual report**

**5-13(1)** In each fiscal year, ICDC shall submit to the minister, in accordance with section 13 of *The Executive Government Administration Act*:

- (a) a report on the business of ICDC for its preceding fiscal year; and
  - (b) a financial statement on the business of ICDC for its preceding fiscal year.
- (2) In accordance with section 13 of *The Executive Government Administration Act*, the minister shall lay before the Legislative Assembly each report and financial statement that the minister receives.

**Annual ICDC charges**

**5-14(1)** On or before the start of each fiscal year, ICDC shall determine an annual charge to be paid to ICDC by all irrigation districts, intensive irrigators and other prescribed persons.

(2) The total of the annual charges levied pursuant to subsection (1) must be sufficient to cover ICDC's activities for the fiscal year that are consistent with its mandate and purposes.

(3) On or before the date set by the minister, ICDC shall forward to the minister:

(a) a schedule of its annual charges for the fiscal year; and

(b) any other information respecting its expenses, revenues or annual charges that the minister may require.

(4) ICDC shall not levy any annual charges until the charges are approved by the minister pursuant to section 5-15.

**Approval of annual charges**

**5-15(1)** On receipt of the information mentioned in section 5-14, the minister shall review the information.

(2) If the minister is satisfied that ICDC's schedule of annual charges is sufficient to pay for ICDC's activities for the fiscal year, the minister shall approve the schedule.

**Requirement to pay annual charges**

**5-16(1)** No irrigation district, intensive irrigator or other prescribed person shall fail to pay any annual charge that is levied by ICDC.

(2) Any annual charges that are not paid by an irrigation district, intensive irrigator or other prescribed person are a debt due to ICDC and may be collected by ICDC in a court of competent jurisdiction.

**Refund of annual charges**

**5-17(1)** A person who pays, either directly or through an irrigation district, an annual charge levied by ICDC, and who wishes to obtain a refund of the annual charge must submit a written request for the refund to ICDC:

(a) on or before the date set by ICDC; and

(b) in accordance with any prescribed terms and conditions.

(2) If ICDC receives a request for a refund of an annual charge pursuant to subsection (1), ICDC shall refund the annual charge to the person:

(a) within 90 days after receiving the request; and

(b) in accordance with any prescribed terms and conditions.

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**PART 6**  
**General**

**Appeals**

**6-1(1)** Any person who is aggrieved by a decision of the minister pursuant to this Act may appeal that decision, on a question of law only, to a judge of the Court of Queen's Bench.

(2) An appeal pursuant to subsection (1) must be brought within 30 days after the date of the decision being appealed.

**Prohibition on using irrigation works**

**6-2(1)** This section does not apply to the following:

- (a) a district consumer;
- (b) a person acting with the prior approval of the irrigation district.

(2) No person, other than one mentioned in subsection (1), shall:

- (a) use the irrigation district's irrigation works; or
- (b) take any water from, or deposit any water in, an irrigation district's irrigation works.

(3) If a person other than one mentioned in subsection (1) contravenes this section, the irrigation district, in addition to any other penalty to which that person is liable pursuant to this Act, may levy a charge, in an amount the irrigation district considers reasonable, to compensate the irrigation district for its costs associated with:

- (a) the use of the irrigation district's irrigation works; or
- (b) taking water from, or depositing water in, the irrigation works.

(4) Any charge levied by an irrigation district pursuant to this section is a debt due to the irrigation district and may be recovered by the irrigation district in a court of competent jurisdiction.

**Offences and penalties**

**6-3(1)** No person shall:

- (a) make a false statement or provide false information to the minister, the ministry or any person acting on behalf of the minister;
- (b) omit to state a fact that is required to be stated or that is necessary to make a statement not misleading in light of the circumstances in which it was made to the minister, the ministry or any person acting on behalf of the minister; or
- (c) fail to comply with this Act or the regulations.

(2) Every person who contravenes any provision of subsection (1) is guilty of an offence and liable on summary conviction to a fine of not more than \$100,000.

**Non-compliance**

**6-4** Notwithstanding any other Act or law, if an irrigation district, district consumer, intensive irrigator or other prescribed person fails to comply with any provision of this Act or any regulations made pursuant to this Act or any terms and conditions, the minister may refuse to make any grant or to provide any other financial assistance to the irrigation district, district consumer, intensive irrigator or other prescribed person for which the irrigation district, district consumer, intensive irrigator or other prescribed person might otherwise qualify.

**Immunity—certain individuals**

**6-5** No action for damages may be commenced against an individual who is:

- (a) a member of a district board or of the board of ICDC;
- (b) an officer, employee or agent of an irrigation district or of ICDC; or
- (c) under contract to provide services to an irrigation district, or to ICDC, if those services are provided pursuant to the authority of this Act or the regulations;

for anything in good faith done, caused or permitted or authorized to be done, attempted to be done or omitted to be done by that individual pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any responsibility imposed by this Act or the regulations.

**Negligence claims**

**6-6(1)** In this section, “**personal injury or damage to property**” means an injury to a person or damage to property caused by any of the following:

- (a) the escape, release or discharge of water from irrigation works, or caused by the provision of irrigation services, in the irrigation district;
- (b) the ponding of any water caused by the existence of irrigation works, or the provision of irrigation services, in the irrigation district.

(2) In the prescribed circumstances, an irrigation district is liable for personal injury or damage to property if any of the following is negligent:

- (a) the irrigation district;
- (b) an officer, employee or agent of the irrigation district.

(3) A person who brings an action for negligence described in subsection (2) must notify the irrigation district of the event that gives rise to the action within 12 months after the event.

(4) Failure to notify the irrigation district is a bar to the action unless:

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

**Exemption from tax, levies and rates**

**6-7** An irrigation district is exempt from taxes, levies and rates imposed by the Government of Saskatchewan, a municipality, a school board or any other prescribed public authority on the following:

- (a) dykes, dams, weirs, drains, ditches, canals, pipelines, culverts, pipes, pumps, pump stations, water control works and water supply works;
- (b) the land on which the structures mentioned in clause (a) are located.

**Crown immunity**

**6-8** No action or proceeding lies or shall be commenced against the Crown, the minister or an officer, employee or agent of the Crown if that person is acting pursuant to the authority of this Act or the regulations, for anything in good faith done, caused or permitted or authorized to be done, attempted to be done or omitted to be done by that person or by any of those persons pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any order or decision made pursuant to this Act or any duty imposed by this Act or the regulations.

**Regulations**

**6-9** The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) prescribing persons or classes of persons for the purposes of Part 5 and section 6-4;
- (c) for the purposes of the definition of “intensive irrigator” in section 1-2 and for the purposes of subsection 3-2(1), prescribing allocations of water;
- (d) for the purposes of the definition of “irrigation works” in section 1-2, prescribing works as irrigation works;
- (e) for the purposes of the definition of “water rights licence” in section 1-2, prescribing other persons;
- (f) for the purposes of subsection 1-4(2), prescribing an amount;
- (g) for the purposes of subsection 2-13(3), prescribing any other entity or class of entities from which an irrigation district may borrow money;
- (h) for the purposes of clause 2-14(2)(g), prescribing other costs that an irrigation district is to consider when preparing its estimate of total costs for a fiscal year;
- (i) for the purposes of clause 2-14(4)(e), prescribing any other factors an irrigation district is to consider when establishing its water service charges;
- (j) for the purposes of section 2-16, prescribing the manner in which an irrigation district is to authorize its financial statements if it does not appoint an auditor;
- (k) for the purposes of section 2-18, prescribing criteria for the approval by the minister of an amalgamation of irrigation districts and respecting amalgamations;
- (l) for the purposes of subsection 2-20(2), respecting appointments by the minister to district boards;
- (m) governing the practice and procedure of district boards;
- (n) respecting the winding-up of an irrigation district;
- (o) prescribing fees payable pursuant to this Act;
- (p) prescribing other information to be set out in a water service master record;
- (q) for the purposes of clause 4-1(1)(a), respecting irrigation replacement funds and the manner of determining the sufficiency of an irrigation replacement fund;
- (r) for the purposes of clause 4-1(1)(b), respecting irrigation works management plans for the renewal and replacement of irrigation works;

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- (s) respecting the membership of ICDC;
  - (t) prescribing the terms and conditions on which:
    - (i) pursuant to subsection 5-17(1) a person may request a refund of the annual charge levied by ICDC; and
    - (ii) pursuant to subsection 5-17(2) ICDC shall refund the annual charge;
  - (u) for the purposes of section 6-6, prescribing circumstances in which an irrigation district is liable for personal injury or damage to property;
  - (v) for the purposes of section 6-7, prescribing other public authorities;
  - (w) prescribing any matter or thing that is required or authorized to be prescribed in this Act in the regulations;
  - (x) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

#### PART 7

### **Repeal, Transitional, Consequential Amendments and Coming into Force**

#### **SS 1996, c I-14.1 repealed**

**7-1** *The Irrigation Act, 1996* is repealed.

#### **Transitional—irrigation districts**

**7-2** Any irrigation districts that were established or continued pursuant to *The Irrigation Act, 1996*, as that Act existed on the day before the coming into force of this section, are continued as irrigation districts pursuant to this Act and may be dealt with as if they were established pursuant to this Act.

#### **Transitional—water supply contracts**

**7-3(1)** In this section, “**water supply contract**” means a water supply contract that:

- (a) was entered into between the Saskatchewan Water Corporation and an irrigation district pursuant to *The Irrigation Act, 1996*, as that Act existed on the day before the coming into force of this section; and
  - (b) is in effect on the day before this section comes into force.
- (2) All water supply contracts continue in effect according to their terms.
- (3) The Saskatchewan Water Corporation may, without the consent of the irrigation district, assign a water supply contract in whole or in part to the minister.
- (4) With respect to irrigation works owned by the Crown and operated by an irrigation district pursuant to a water supply contract that has been assigned to the minister pursuant to subsection (3), on the expiration of that water supply contract, the irrigation district shall enter into a works use agreement with the minister respecting the operation, maintenance and replacement of those irrigation works.

#### **Transitional—certificates**

**7-4** Every irrigation certificate that is in effect on the day before this section comes into force:

- (a) continues in effect on and after the day on which this section comes into force for the land for which the irrigation certificate is issued until the irrigation certificate is cancelled pursuant to this Act; and
- (b) may be dealt with by the minister pursuant to this Act as if it had been issued by the minister pursuant to this Act.



**Transitional—special irrigation certificates**

**7-5(1)** This section applies to a person who on the day before this section comes into force:

(a) has been receiving irrigation services from an irrigation district with respect to land that has had continuous irrigation or continuous irrigation services from an irrigation district before the coming into force of this Act, but who was not required to obtain an irrigation certificate on the land that was being irrigated pursuant to *The Irrigation Act, 1996*; or

(b) has been continuously irrigating land in an area not served by an irrigation district before the coming into force of this Act, but who was not required to obtain an irrigation certificate on the land that was being irrigated pursuant to *The Irrigation Act, 1996*.

(2) Notwithstanding any other provision of this Act, on the coming into force of this section, a person mentioned in subsection (1):

(a) is deemed to have been issued a special irrigation certificate with respect to the land mentioned in subsection (1) by the minister;

(b) is required to comply with the Act, the regulations and any terms and conditions imposed on the special irrigation certificate pursuant to subsection (3); and

(c) may receive irrigation services with respect to the land mentioned in subsection (1) notwithstanding that the person is not the person who was receiving irrigation services as of January 1, 1997.

(3) The minister may impose any terms and conditions the minister considers appropriate on a special irrigation certificate mentioned in subsection (2).

(4) A special irrigation certificate may be dealt with pursuant to this Act as if issued pursuant to this Act.

**SS 2016, c P-31.1 amended**

**7-6** Subsection 2-17(1) of *The Provincial Lands Act, 2016* is amended by striking out “*The Irrigation Act, 1996*” and substituting “*The Irrigation Act, 2018*”.

**SS 2002, c S-35.01 amended**

**7-7** Clause 20(1)(b) of *The Saskatchewan Water Corporation Act* is amended by striking out “*The Irrigation Act, 1996*” and substituting “*The Irrigation Act, 2018*”.

**SS 2005, c W-8.1 amended**

**7-8** Clause 21(1)(b) of *The Water Security Agency Act* is amended by striking out “*The Irrigation Act, 1996*” and substituting “*The Irrigation Act, 2018*”.

**Coming into force**

**7-9** This Act comes into force on proclamation.





THIRD SESSION

**Twenty-eighth Legislature**

SASKATCHEWAN

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**B I L L**

No. 162

An Act to Promote, Develop and Sustain Irrigation  
and to make consequential amendments to  
certain Acts

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Received and read the

First time

Second time

Third time

And passed

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Honourable David Marit

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