

The Water Users Act

Repealed by
Chapter I-14.1 of the *Statutes of Saskatchewan, 1997*
(effective January 1, 1997).

Formerly
Chapter W-10 of the *Revised Statutes of Saskatchewan, 1978*
(effective February 26, 1979) as amended by the *Statutes of
Saskatchewan, 1979-80, c.M-32.01; 1983-84, c.63; and 1989-90,
c.5 and 54.*

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

CHAPTER W-10

An Act respecting Water Users Associations

Short title

- 1 This Act may be cited as *The Water Users Act*.

Interpretation

- 2 In this Act:

- (a) “**board**” means the board of directors of an association incorporated under this Act or any former *Water Users Act*;
- (b) “**minister**” means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (c) “**owner**” means the registered owner, or a beneficial owner of land, whether entitled under an agreement to purchase or otherwise;
- (d) “**works**” means a work heretofore or hereafter constructed in a water users’ district established under this Act, or any former *Water Users Act*, for the diversion, storage and delivery of water, and includes dugouts, reservoirs and dams.

R.S.S. 1978, c.W-10, s.2; 1983-84, c.63, s.18.

WATER USERS’ DISTRICTS

Area

- 3 A water users’ district may consist of:

- (a) any portion of a rural municipality;
- (b) one or more rural municipalities, either alone or together with any portion of any rural municipality.

R.S.S. 1978, c.W-10, s.3; 1979-80, c.M-32.01, s.80.

Petition for establishment of district

- 4(1) Three or more resident ratepayers of a proposed district may present a petition to the minister for the establishment of a water users’ district.
- (2) The petition shall contain a full description of the proposed district.
- (3) Every person who signs a petition shall sign in the presence of an attesting witness.

R.S.S. 1978, c.W-10, s.4.

Establishment of district

5 On receipt of a petition the minister may by order, after such inquiries as he deems expedient, define and establish a water users' district in accordance with the petition and assign a name and number to the district.

R.S.S. 1978, c.W-10, s.5.

Extension or reduction of district

6(1) An association may, upon resolution passed at a general meeting, present a petition to the minister for the extension of the district or for the withdrawal of land from the district.

(2) The petition shall contain a full description of the proposed addition or withdrawal, and shall be accompanied by:

- (a)** a copy of the resolution certified under the hand of the secretary;
- (b)** the consents of the resident ratepayers whose lands it is proposed to add to or withdraw from the district.

(3) Upon receipt of the petition the minister may by order, after such inquiries as he deems expedient, alter the boundaries of the district in accordance with the petition.

(4) Every order made under subsection **(3)** shall be published in the *The Saskatchewan Gazette* and from the date of the publication the resident ratepayers whose lands have been added to the district shall be members of the association and the resident ratepayers whose lands have been withdrawn from the district shall cease to be members of the association.

R.S.S. 1978, c.W-10, s.6.

WATER USERS ASSOCIATIONS

Incorporation

7 Every order made under section 5 shall be published in the *Gazette* and from the date of the publication the petitioners and such other persons as may become members of the association shall be a body corporate under the name of The Water Users Association.

R.S.S. 1978, c.W-10, s.7.

Works appurtenant to lands of members

8 All works constructed by an association shall be appurtenant to the lands of its members upon which their membership is based, in proportion to their respective interests in the association, and shall in like proportion pass with any demise, devise, alienation, transfer or other disposition of the lands, whether by operation of law or otherwise.

R.S.S. 1978, c.W-10, s.8.

General duties of association

9 Every association shall be responsible for the maintenance and repair of all works within the district, in accordance with this Act and the regulations.

R.S.S. 1978, c.W-10, s.9.

Powers of associations

10(1) An association may:

- (a) apply in the name and for the benefit of any or all of its members for rights to use water pursuant to *The Water Corporation Act*;
- (b) take the steps necessary to afford an equitable distribution of water to its members;
- (c) reconstruct or construct such works as it deems expedient;
- (d) enter into contracts for the supply or purchase of water from works outside the district, and distribute the water through the works of the district;
- (e) purchase such machinery and equipment as it deems necessary for its purposes, subject to the previous approval of the minister;
- (f) erect dykes for the purpose of preventing inundation of lands caused by the overflow of waters from creeks, rivers or lakes or for the purpose of holding waters on lands for irrigation purposes, subject to the previous approval of the minister;
- (g) acquire and operate works for the improvement and development of lands by drainage and incidental means;
- (h) subject to the approval of the minister, in the name of and for the benefit of the association, purchase, lease or otherwise acquire or hold any real property or interest therein, that is necessary or convenient in the construction, operation or maintenance of its works.

(2) Subject to the approval of the minister, the association may, by its surveyors, engineers, foremen, agents, workmen or servants, enter upon and take, use and acquire any real property required in connection with the works, without consent of the owners of the real property; and for that purpose sections 78 to 81 of *The Irrigation District Act* shall apply *mutatis mutandis*.

(3) The association shall make due compensation to the parties entitled thereto for property taken under subsection (2) and if such compensation and the parties entitled thereto are not mutually agreed upon the matters in dispute shall be determined by arbitration and sections 82 to 91 of *The Irrigation Districts Act* shall apply *mutatis mutandis*.

R.S.S. 1978, c.W-10, s.10; 1983-84, c.63, s.18.

Power to make bylaws

11 An association may make bylaws governing any matter within its jurisdiction and, without restricting the generality of the foregoing, may make bylaws:

- (a) governing the time, place and manner of calling and conducting meetings of the association;
- (b) governing the election of the board of directors and the compensation, duties and terms of office of directors;
- (c) governing the duties of employees of the association;
- (d) imposing on its members the duty of maintaining the works of the district in a proper state of repair and, for that purpose, allotting to each member such portion of the works, including roads and highway crossings, as it deems expedient;
- (e) providing for the equitable apportionment of the full amount of water allotted to the district or received at the outlet or outlets of a canal or reservoir controlled by a board, corporation or person contracting to supply water to the association;
- (f) providing for assessment of its members, based on the area of irrigable land for which water is made available or on the amount of water provided for the use of each member of the association, and governing the payment and collection of assessments;
- (g) where the purchase of necessary machinery and equipment has been approved by the minister, authorizing the board to purchase such machinery and equipment upon credit or to borrow upon the security of a promissory note signed by the members of the board such sums as may be required for the purchase of the machinery and equipment.

R.S.S. 1978, c.W-10, s.11.

Bylaws to be approved by minister

12 All bylaws shall be submitted to the minister for his approval and when approved, or approved with modification, the bylaws as so approved shall be binding upon all persons affected thereby.

R.S.S. 1978, c.W-10, s.12.

Agreements with licensee for mingling of waters

13 An association may, at a meeting called for the purpose, authorize the board to enter into an agreement with an owner of land to which a licence is appurtenant, to mingle the waters held by the owner under his licence with the waters conveyed by the association under its licence, and to co-operate in constructing or using works for the carriage of the mingled waters, on terms determined by the association.

R.S.S. 1978, c.W-10, s.13.

Temporary loans

14(1) The board may:

- (a) where authorized by a bylaw under clause (g) of section 11, borrow from any person, bank or lending institution such sums as may be required for the purchase of the machinery and equipment mentioned in the bylaw;
- (b) subject to subsection (2), borrow from any person, bank or lending institution such sums as the board deems necessary to meet the current expenditures of the district until the assessments levied for the year are collected;

and may give as security for any such loan a promissory note signed by the members of the board, which shall be valid and binding upon the association according to its tenor.

(2) The total amount of the sums borrowed in any year to meet current expenditures shall not exceed eighty per cent of the total amount of the assessments levied for the current year and shall be repaid upon collection of the assessments levied.

R.S.S. 1978, c.W-10, s.14.

Records

15(1) The secretary of the association shall keep the books, records and accounts necessary to afford a proper record of the business of the association, and in accordance with the regulations, and shall in the month of January in each year make out a balance sheet and statement made up to the thirty-first day of December last preceding, showing the assets and liabilities of the association, the names of its members, the interest held by each member in and the moneys due by each member to the association, and the names of all creditors and the amount due to each.

(2) The balance sheet and statement shall be laid before the association at its annual meeting, which shall be called by the secretary and held on or before the tenth day of April in each year.

(3) A copy of the balance sheet and statement shall be filed with the minister.

R.S.S. 1978, c.W-10, s.15.

BOARD OF DIRECTORS**Duties and powers**

16(1) The affairs of the association shall be managed by a board of directors consisting of three or more persons, as the association may determine.

(2) Until the first general meeting of the association the persons signing the petition for the establishment of the district shall be the board of directors.

(3) The minister may appoint one member to act for and represent him on the board.

(4) The board may make rules, not inconsistent with this Act or the bylaws of the association, governing the management of the affairs of the association and for carrying out the provisions of this Act.

(5) The board shall appoint a secretary and such other employees as it deems necessary.

R.S.S. 1978, c.W-10, s.16; 1989-90, c.54, s.6.

Administration

17(1) The Lieutenant Governor in Council may appoint a person to administer the affairs of a district in place and stead of the board and its employees, which administrator shall have all the powers and may perform any of the duties conferred or imposed by this Act upon the board or its employees and shall be remunerated out of the funds of the district or otherwise as the Lieutenant Governor in Council may decide.

(2) After the appointment of an administrator the board of directors and its employees shall not while the administrator continues in office exercise any power or perform any duty hereby conferred or imposed upon the board or its employees.

(3) Upon the appointment of an administrator the board of directors shall hand over to him all personal property belonging to the association, including moneys, books of account, records, plans, documents and other papers in the hands of the board or any of its employees and relating to the affairs of the district.

(4) Where an administrator has been appointed the association may appoint an advisory committee consisting of three of its members, which committee shall confer with the administrator respecting matters affecting the members of the association and the general welfare thereof. The committee shall hold office during the pleasure of the minister.

(5) The Lieutenant Governor in Council may at any time order an election by the association of a board of directors or provide in some other manner for the resumption of management of the affairs of the district by a board of directors and may also make such incidental orders as are deemed necessary.

R.S.S. 1978, c.W-10, s.17.

MEETINGS OF ASSOCIATION

Meetings

18(1) Every association shall hold one or more general meetings each year and any matter affecting the association or its affairs may be dealt with at a general meeting.

(2) The first general meeting of an association shall be held within one month after the date of its incorporation.

(3) The board may at any time call a special meeting of the association, and any three members may require the board to call a special meeting for the purpose of disposing of specific business, and the board shall thereupon call such meeting.

(4) No business other than that specified in the notice shall be transacted at a special meeting.

(5) Every member shall be entitled to vote at meetings of the association either in person or by proxy, and may by proxy in writing filed with the board appoint any person whomsoever to represent him at any or all meetings of and in all matters relating to the association. All questions at meetings shall be determined by the majority in interest of the members voting thereon, and not by the number of members so voting.

R.S.S. 1978, c.W-10, s.18.

MEMBERS

Interest of member defined

19(1) For the purposes of this Act, the interest of each member in an association shall be based on the maximum quantity of water that he has the right to divert by virtue of the licence appurtenant to his land, and that is carried in the works of the district, and shall be of such proportion as such maximum quantity of water bears to the aggregate of the maximum quantities of water that all the members have the right respectively to divert and that are carried in the works of the district.

(2) Subject to the approval of the minister, the members of an association may at a general meeting, upon the vote of a majority in interest as shown by the last confirmed assessment roll of the association or, if no assessment roll has been confirmed, as ascertained on the basis set out in subsection (1), determine that thereafter the respective interests of the members shall be proportionate to the respective areas of the lands of the members that are irrigated by means of the works operated by the association.

R.S.S. 1978, c.W-10, s.19.

Change of interest of members

20 If by reason of the amendment of a licence, or of the transfer, sale or purchase of land or otherwise, the maximum quantity of water that a member has the right to divert by virtue of a licence, and that is carried in the works operated by the association, is changed, the members may by notice in writing notify the board of the change; and every assessment roll of the association shall be in accordance with the interests of its members as affected by any change of which the board is notified, including the interest of a person who becomes a member through the purchase or acquisition of land.

R.S.S. 1978, c.W-10, s.20.

Liability of members for debts of association

21 No member shall be personally liable for any debt or obligation of the association beyond an amount thereof proportionate to his interest in the association; but every member shall be respectively liable for each debt and obligation of the association to the extent of such proportionate amount as if it were a personal debt or obligation due or owing by the member to the person to whom the debt or obligation is due or owing.

R.S.S. 1978, c.W-10, s.21.

Liability where lands disposed of by member

22(1) A member who transfers or disposes of the lands upon which his membership is based, and who gives notice thereof in writing to the board, shall cease to be a member on receipt of the notice by the board, but he shall remain personally liable for all debts and obligations of the association incurred while he was a member, to the extent to which he was liable therefor immediately prior to his ceasing to be a member.

(2) A person who acquires from a member of an association lands which is irrigated by means of the works operated by the association shall by reason of such acquisition become a member of the association, and shall thereafter be personally liable for the debts and obligations incurred by the association after such acquisition, in proportion to his interest in the association.

R.S.S. 1978, c.W-10, s.22.

Failure of member to perform duties

23 If a member whose duty it is to maintain a portion or portions of the works of an association neglects to maintain the same properly, the board may in writing notify him to have the same put in a proper state of repair within one week after receipt by him of the notice, and if the required repairs are not completed within that period the board may have the work done and pay the costs thereof and, in such case, the person in default shall be liable for the cost and any other expenses occasioned by his default and the amount of such cost and expenses may be collected in the same manner as if it were a rate imposed under this Act.

R.S.S. 1978, c.W-10, s.23.

Damage caused by neglect of member

24 If a member wilfully permits damage to be caused to a road or highway either through lack of proper maintenance of the portion or portions of works allotted to him for maintenance, or by the careless or improper use of irrigation water, the board may take whatever steps in its opinion are necessary to remedy the damage and to prevent a recurrence thereof, and may charge the cost of the work against such person, and the cost may be collected in the same manner as if it were a rate imposed under this Act.

R.S.S. 1978, c.W-10, s.24.

DEBENTURES

Power to issue debentures

25(1) Subject to the approval of the Saskatchewan Municipal Board and to such terms and conditions as it may prescribe, and to the regulations made under subsection (2), an association may raise by way of loan on debenture such amount as may be required to compensate the owners of lands acquired under subsection (2) of section 10 or for reconstructing, adding to or extending the works of the association or constructing new works.

(2) The Lieutenant Governor in Council may make regulations governing:

- (a) applications for authority to issue debentures;
- (b) the issue of debentures;
- (c) the form and contents of debentures and the signing, countersigning and registration thereof;
- (d) the assessment of the members of the association for amounts required to retire debentures and to pay interest on debentures;
- (e) the disposal of the proceeds of sale of debentures and the assessments referred to in clause (d);
- (f) the bonding of the secretary for the due accounting of all moneys that come into his hands as the proceeds of sale of debentures and the assessments referred to in clause (d).

R.S.S. 1978, c.W-10, s.25; 1989-90, c.5, s.10.

ASSESSMENTS

Preparation of assessment roll

26 For the purpose of levying an assessment to provide moneys required for the purposes of the association, the secretary shall from time to time as the board may direct and at such other times as may be required by the regulations made pursuant to section 25, prepare an assessment roll showing:

- (a) the estimated amounts required for construction, reconstruction, operation, maintenance and repair of works;
- (b) the respective portions of the total amount that are payable by members in proportion to their respective interests in the association.

R.S.S. 1978, c.W-10, s.26.

Roll checked by board

27 The board shall, on completion of the assessment roll, examine it and make such corrections therein as the majority of the board may decide.

R.S.S. 1978, c.W-10, s.27.

Roll posted by secretary

28 Forthwith after the completion of the examination of the roll the secretary shall post a copy of the assessment roll in a convenient and conspicuous public place in the district.

R.S.S. 1978, c.W-10, s.28.

Notices of assessment

29 The secretary shall deliver or send by registered mail to each member an assessment notice showing the amount payable by the member and stating where the copy of the assessment roll is posted.

R.S.S. 1978, c.W-10, s.29.

Documents forwarded to minister

30 The secretary shall forward a copy of the roll to the minister, together with a declaration that sections 27, 28 and 29 have been complied with.

R.S.S. 1978, c.W-10, s.30.

Appeals from assessment

31 A member may appeal against an assessment by filing with the board, within fourteen days after the mailing of his assessment notice or its delivery to him by the secretary, a statement showing the grounds of his appeal; and the board, after a hearing if it considers a hearing necessary, may allow or disallow the appeal and if the appeal is allowed shall alter the assessment roll or cause it to be altered by the secretary in accordance with its decision.

R.S.S. 1978, c.W-10, s.31.

Adoption of roll

32 The board shall within thirty days after completion of the assessment roll by the secretary, or, in case of appeals, forthwith on the determination thereof, by certificate endorsed on the roll, confirm the roll as prepared by the secretary or as altered on appeal, and the roll when confirmed by the board shall be final and binding on all parties concerned.

R.S.S. 1978, c.W-10, s.32.

Discount for prompt payment of assessment

33 The board may allow a discount, not exceeding five per cent, for prompt payment of the assessment if paid before the first day of October in the year in which the assessment is imposed.

R.S.S. 1978, c.W-10, s.33.

Interest on unpaid assessments

34(1) If an assessment remains unpaid after the thirty-first day of October in the year in which it is imposed, there may be added thereto by way of penalty a sum equal to five per cent of the arrears and, upon the expiry of each succeeding year during which the whole or any portion of the combined amount of the assessment and penalty or penalties remains unpaid, an additional sum equal to five per cent of the combined amount may be added thereto.

(2) Amounts so added shall form part of the assessment.

R.S.S. 1978, c.W-10, s.34.

Recovery of assessments

35 An assessment heretofore imposed or any part thereof that now remains unpaid and an assessment hereafter imposed or any part thereof that remains unpaid after the thirty-first day of October in the year in which it is imposed may be recovered by action in the name of the association in any court of competent jurisdiction, together with costs of the action, or the secretary may, by himself or by his agent, levy the assessment, with costs, by distress of the goods and chattels of the member in default or of any goods and chattels in his possession, wherever they may be found within the province, or of any goods and chattels found on the lands of the member the property of or on the possession of any other occupant of the lands and that would be subject to distress for arrears of rent, due to a landlord, and the costs chargeable on any distress shall be those payable between landlord and tenant.

R.S.S. 1978, c.W-10, s.35.

Penalty for non-payment of assessment

36 The association may refuse to deliver to or permit water to be taken by a member who fails to pay an assessment, payable by him, before the first day of November in the year in which it is imposed.

R.S.S. 1978, c.W-10, s.36.

Sums owing a charge on land

37 Any sum owing to the association by a member shall form a charge upon the land with respect to which the sum is so owing, and shall continue to be a charge thereon notwithstanding that he ceases to be a member, and the association by its secretary may file a caveat for the protection of such charge in the proper land titles office.

R.S.S. 1978, c.W-10, s.37.

OFFENCES AND PENALTIES**Damaging works**

38 A person who carelessly or wilfully breaks, cuts or fills up or otherwise injures any ditch or property of an association is guilty of an offence and liable on summary conviction to a fine not exceeding \$100 and costs and in default of payment to imprisonment for a period not exceeding sixty days; and the convicting justice may further order the offender to repair the damage or remove the obstruction within a stated period.

R.S.S. 1978, c.W-10, s.38.

POWERS OF MINISTER

Power of minister to take over works

39(1) Subject to *The Water Corporation Act* and to the approval of the Lieutenant Governor in Council the minister may, if in the public interest it is deemed advisable to do so, take over and operate or otherwise dispose of the works of an association without consent of the association and for that purpose sections 78 to 81 of *The Irrigation Districts Act* shall apply *mutatis mutandis*, provided that the minister may by himself or his appointee do anything that the board of an irrigation district or its secretary or officials are directed or empowered to do under those sections.

(2) The minister shall make due compensation to the board for works taken pursuant to subsection (1), and if the compensation is not mutually agreed upon by the parties concerned it shall be determined by arbitration and sections 82 to 91 of *The Irrigation Districts Act* shall apply *mutatis mutandis*.

(3) The compensation awarded to the association shall not include the value of any investment made by the Government of Canada or Saskatchewan in the construction of the works of the association.

R.S.S. 1978, c.W-10, s.39; 1983-84, c.63, s.18.

Expropriation powers of minister

40(1) The minister may enter upon and take and acquire any land in the vicinity of the works of an association or of works taken over by him under section 39, the expropriation of which is in his judgment necessary to confer upon an adequate number of agriculturalists the benefits derived from the works and for that purpose sections 78 to 81 of *The Irrigation Districts Act* shall apply *mutatis mutandis*, provided that the minister may by himself or his appointee do anything that the board of an irrigation district or its secretary or officials are directed or empowered to do under those sections.

(2) The minister shall make due compensation to the parties entitled thereto for lands taken pursuant to subsection (1), and if the compensation and the parties entitled thereto are not mutually agreed upon the matters in dispute shall be determined by arbitration and sections 82 to 91 of *The Irrigation Districts Act* shall apply *mutatis mutandis*.

(3) The compensation agreed upon by the minister or fixed by arbitration shall not include any amount for increased value of the lands resulting from the construction of the works, but a reasonable allowance may be made for any increase in value resulting from the efforts of the owner.

R.S.S. 1978, c.W-10, s.40.

Power of minister to withdraw lands

41(1) The minister may, on giving written notice of intention to do so, withdraw the whole or any portion of the lands included in a disposition by sale, lease, permit or licence of Crown lands and required in connection with any water supply system, in which event:

(a) in the case of a sale contract the purchaser shall be entitled to a reduction in the purchase price proportionate to the acreage withdrawn and to compensation for buildings and improvements erected or made by him, by virtue of which the value of the land withdrawn has been increased; and

(b) in the case of a lease, permit, licence or other disposition, the lessee, permittee or occupant shall be entitled to a reduction in rental or fee proportionate to the remainder of the term of his occupancy.

(2) If the amount of the compensation mentioned in clause (a) of subsection (1) and the parties entitled thereto are not mutually agreed upon, the matters in dispute shall be determined by arbitration and the procedure in such arbitration shall be prescribed by regulation of the Lieutenant Governor in Council and shall be as nearly as may be in accordance with sections 82 to 91 of *The Irrigation Districts Act*.

R.S.S. 1978, c.W-10, s.41.

Disposal of lands by minister

42 The minister may sell or lease land expropriated or withdrawn by him under section 40 or 41, in such parcels and upon such terms and conditions as he deems expedient.

R.S.S. 1978, c.W-10, s.42.

DISORGANIZATION OF ASSOCIATION

Dissolution on petition

43 The Lieutenant Governor in Council may dissolve an association on a petition signed by a majority in interest of the members thereof, if satisfied that due provision has been made for the payment and discharge of all debts and obligations of the association and for an equitable distribution of its assets, if any.

R.S.S. 1978, c.W-10, s.43.

REGULATIONS

Powers of Lieutenant Governor in Council

44 For the purpose of carrying out the provisions of this Act according to their true intent and of supplying any deficiency therein, the Lieutenant Governor in Council may make regulations not inconsistent with the spirit of the Act or the provisions of *The Water Corporation Act* and approvals pursuant to that Act, and regulations so made shall have the same force and effect as if incorporated herein.

R.S.S. 1978, c.W-10, s.44; 1983-84, c.63, s.18.

LIEN FOR CERTAIN WATER RATES

Lien of Her Majesty in right of Canada

45 All rentals, rates or prices payable by any person, firm or corporation for water supplied by Her Majesty in right of Canada pursuant to agreement with Her Majesty shall, so long as the same remain unpaid, be and are hereby created a lien or charge upon all crops of grain, fodder, hay and roots grown by such person, firm or corporation on the land described in the agreement and upon all cattle belonging to such person, firm or corporation, and upon the proceeds of sale of such grain, fodder, hay, roots and cattle.

R.S.S. 1978, c.W-10, s.45.