

The Irrigation Regulations, 2020

being

[Chapter I-14.2 Reg 1](#) (effective March 20, 2020).

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.

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CHAPTER I-14.2 REG 1

The Irrigation Act, 2019

Title

- 1** These regulations may be cited as *The Irrigation Regulations, 2020*.

Definitions

- 2** In these regulations, “**Act**” means *The Irrigation Act, 2019*.

27 Mar 2020 cI-14.2 Reg 1 s2.

Prescribed allocation of water - section 1-2 of the Act

- 3** For the purposes of the definition of “intensive irrigator” in section 1-2 of the Act, the prescribed allocation of water is an amount equal to or greater than 3 cubic decametres of water per hectare (1 acre-foot of water per acre).

27 Mar 2020 cI-14.2 Reg 1 s3.

Prescribed allocation of water - subsection 3-2(1) of the Act

- 4** For the purposes of subsection 3-2(1) of the Act, the prescribed allocation of water is an amount equal to or greater than 12,300 cubic metres (10 acre-feet) of water annually.

27 Mar 2020 cI-14.2 Reg 1 s4.

Prescribed persons - sections 1-2, 5-3 to 5-5 and subsection 5-7(2) of the Act

- 5(1)** A person mentioned in subsection (2) is a prescribed person for the purposes of:

- (a) the definition of “water rights licence” in section 1-2 of the Act;
- (b) the composition of the membership of ICDC in accordance with section 5-3 of the Act;
- (c) the mandate and purposes of ICDC set out in section 5-4 of the Act;
- (d) the carrying out and fulfilling of the mandate and purposes of ICDC in accordance with section 5-5 of the Act; and
- (e) the composition of the board of ICDC in accordance with subsection 5-7(2) of the Act.

- (2)** A prescribed person is a person other than an intensive irrigator who:

- (a) receives a minimum allocation of 1.5 cubic decametres per hectare (6 inches per acre) of water; and
- (b) irrigates a minimum of 4 hectares (10 acres) of land using a sprinkler irrigation system.

27 Mar 2020 cI-14.2 Reg 1 s5.

Prescribed amount - subsection 1-4(2) of the Act

6 For the purposes of subsection 1-4(2) of the Act, the prescribed amount is \$100,000.

27 Mar 2020 cI-14.2 Reg 1 s6.

Authorization of financial statements

7(1) An irrigation district may apply to the minister in a form and manner satisfactory to the minister for an exemption from the requirement to carry out an audit set out in section 2-16 of the Act, but to have its records, accounts and financial statements reviewed by an authorized person.

(2) The application must include:

- (a) the name of the person who is to review the records, accounts and financial statements; and
- (b) the person's qualifications for conducting a review.

(3) On receipt of an application pursuant to subsection (1), after taking into account the following considerations, the minister may permit an irrigation district to have its records, accounts and financial statements reviewed by the person named in the application:

- (a) the annual revenue of the irrigation district;
- (b) the geographic area served by the irrigation district;
- (c) the public interest;
- (d) any other circumstances that the minister considers appropriate.

(4) The minister may impose any terms and conditions on a permission given pursuant to subsection (3).

(5) The person named in the application pursuant to subsection (1) must be independent of the irrigation district and district consumers of the irrigation district.

(6) The authorized person shall review and provide comments on 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 time that the irrigation district or the minister may direct.

(7) The irrigation district must:

- (a) retain a copy of the authorized person's review and comments on its records; and
- (b) provide a copy of the review and comments to the minister within 30 days after receiving the review.

27 Mar 2020 cI-14.2 Reg 1 s7.

Prescribed criteria for amalgamation

8 For the purposes of subsection 2-18(2) of the Act, the following are the criteria on which the minister may base a decision to approve or refuse an application for amalgamation:

- (a) the best interests of each amalgamating irrigation district;
- (b) the best interests of the district consumers of each amalgamating irrigation district;
- (c) whether the amalgamation is in the public interest.

27 Mar 2020 cI-14.2 Reg 1 s8.

Amalgamation proposal

9(1) If 2 or more irrigation districts propose to amalgamate, the irrigation districts proposing to amalgamate shall prepare a detailed proposal setting out the terms of the amalgamation and the means of effecting the amalgamation and, in particular, setting out the following:

- (a) the names of the amalgamating irrigation districts;
- (b) the names of all district consumers of each amalgamating irrigation district;
- (c) the number of hectares or acres receiving irrigation services in each amalgamating irrigation district;
- (d) the reasons for the amalgamation and the benefits that the district board of each amalgamating irrigation district expects will be achieved by the amalgamation;
- (e) the proposed date of the amalgamation;
- (f) the proposed name and number of the amalgamated irrigation district.

(2) Each irrigation district that is proposing to amalgamate shall notify district consumers and other persons in the area served by the irrigation district of the proposed amalgamation by publishing a notice of the proposed amalgamation in a newspaper of general circulation in the area served by the irrigation district and, if the irrigation district has a website, by posting the notice on the website of the irrigation district.

27 Mar 2020 cI-14.2 Reg 1 s9.

Adoption of amalgamation proposal by district consumers

10(1) The district board of each amalgamating irrigation district shall submit the amalgamation proposal prepared in accordance with section 9 for approval to a meeting of the district consumers of the amalgamating irrigation district.

(2) A notice of a meeting of the district consumers shall be sent to each district consumer of each amalgamating irrigation district in accordance with subsection (3), together with a copy of the amalgamation proposal.

(3) The notice mentioned in subsection (2) must set out the time and place of the meeting and the text of any special resolution to be submitted to the meeting, and shall be sent to each district consumer by personal service or registered mail not less than 30 days nor more than 50 days before the meeting.

(4) An amalgamation proposal is adopted by an irrigation district when the district consumers of the irrigation district have approved the amalgamation by a resolution passed by more than 50% of the district consumers controlling more than 50% of the irrigated area of the irrigation district, stating that:

- (a) the district consumers received and understood the amalgamation proposal;
- (b) the district consumers support the proposed amalgamation; and
- (c) if more than 2 irrigation districts wish to amalgamate and if 1 amalgamating irrigation district cannot or does not proceed with the proposed amalgamation, the district consumers wish to continue the amalgamation with the remaining amalgamating irrigation districts.

27 Mar 2020 cI-14.2 Reg 1 s10.

Application to amalgamate

11(1) After an amalgamation proposal has been adopted pursuant to section 10, the amalgamating irrigation districts shall provide to the minister:

- (a) an application to amalgamate, in a form and manner satisfactory to the minister, containing:
 - (i) the names and addresses of the district consumers of each amalgamating irrigation district;
 - (ii) the legal description of the lands receiving irrigation services in each amalgamating irrigation district; and
 - (iii) the number of hectares or acres receiving irrigation services in each amalgamating irrigation district;
 - (b) a copy of the amalgamation proposal;
 - (c) a certified copy of the resolution mentioned in subsection 10(4) for each amalgamating irrigation district;
 - (d) a statement for each amalgamating irrigation district of the assets, liabilities and irrigation works owned or controlled by the irrigation district, in a form and manner satisfactory to the minister; and
 - (e) a written declaration of a director or an officer of the district board of each amalgamating irrigation district stating that there are reasonable grounds for believing that the amalgamated irrigation district will be able to pay its liabilities as they become due.
- (2) A statement to be provided pursuant to clause (1)(d):
- (a) is to be sworn by the chairperson, the vice-chairperson and a majority of the remaining members of the district board of the amalgamating irrigation district to which the statement pertains; and

(b) is to state that the information provided in the statement accurately and fairly represents the financial and contractual circumstances of the amalgamating irrigation district.

27 Mar 2020 cI-14.2 Reg 1 s11.

Amalgamation – certain irrigation districts

12 In the event that more than 2 irrigation districts wish to amalgamate, the failure of an irrigation district to meet the requirements for amalgamation does not prevent the remaining irrigation districts from proceeding with the amalgamation in accordance with the Act and these regulations.

27 Mar 2020 cI-14.2 Reg 1 s12.

Notice of amalgamation

13(1) If the amalgamation is approved by the minister, each amalgamating irrigation district shall immediately notify its district consumers of the effective date of the amalgamation.

(2) The effective date is to be no more than 90 days after the approval of the amalgamation by the minister.

27 Mar 2020 cI-14.2 Reg 1 s13.

Effective date of amalgamation

14 If notice has been given to district consumers pursuant to section 13, the amalgamating irrigation districts continue as one irrigation district on the effective date of the amalgamation and cease to exist as separate irrigation districts on that date.

27 Mar 2020 cI-14.2 Reg 1 s14.

Voluntary winding-up of irrigation district

15(1) An irrigation district that applies to the minister to be voluntarily wound up pursuant to subsection 2-19(1) of the Act shall provide the following to the minister:

- (a) an application for voluntary winding-up, in a form and manner satisfactory to the minister, containing:
 - (i) the names and addresses of the district consumers of the irrigation district;
 - (ii) the legal description of the lands receiving irrigation services in the irrigation district; and
 - (iii) the number of hectares or acres receiving irrigation services in the irrigation district;
- (b) a certified copy of a resolution to wind up approved at a meeting of the district consumers by more than 50% of the district consumers of the irrigation district controlling more than 50% of the irrigated area of the irrigation district;
- (c) a statement of the assets, liabilities and irrigation works owned or controlled by the irrigation district, in a form and manner satisfactory to the minister;

- (d) a copy of all water service agreements and contracts to which the irrigation district is a party;
 - (e) a statement satisfactory to the minister confirming that all debts and liabilities of the irrigation district are or will be satisfied or stating that the assets of the irrigation district are not sufficient to cover the costs of winding-up.
- (2) The statement provided pursuant to clause (1)(c) must:
 - (a) be sworn by the chairperson, the vice-chairperson and a majority of the remaining members of the district board; and
 - (b) state that the information provided in the statement accurately and fairly represents the financial and contractual circumstances of the irrigation district.
- (3) After receiving the information mentioned in subsection (2), the minister may give notice that the irrigation district will be wound up.
- (4) After notice is given pursuant to subsection (3), the irrigation district shall:
 - (a) as soon as is practicable, carry out all matters necessary to wind up the district, including decommissioning all of its irrigation works; and
 - (b) provide the minister with confirmation that the wind-up is complete.
- (5) After being satisfied that the matters necessary for the wind-up of the irrigation district have been completed, the minister may order that the irrigation district be wound up.
- (6) An order made pursuant to subsection (5) is final and binding on the irrigation district and its district consumers.
- (7) The irrigation district ceases to operate and exist from the date of the order made pursuant to subsection (5).
- (8) Subject to subsection (9), the costs of winding up the irrigation district in accordance with this section, including the costs of decommissioning any irrigation works associated with the winding-up, must be paid:
 - (a) out of the irrigation district's moneys; or
 - (b) if the assets and irrigation works of the irrigation district are sold, out of the proceeds of sale of the assets and irrigation works of the irrigation district.
- (9) If the costs of winding up exceed the amounts available pursuant to subsection (8), the minister may pay the excess costs.
- (10) Any land or interest in land and any assets of the irrigation district, including any moneys of the irrigation district or proceeds of sale available pursuant to subsection (8), that have not been disposed of when the irrigation district is wound up are forfeited to and vest in the Crown.

Minister-initiated winding-up of irrigation district

16(1) If the minister, on the minister's own initiative, wishes to wind up an irrigation district pursuant to subsection 2-19(2) of the Act, the minister shall appoint an administrator for the irrigation district, who has the powers of a duly constituted district board and replaces any district board in office at the time of the administrator's appointment.

(2) The minister must provide the irrigation district with notice of an appointment pursuant to subsection (1) along with reasons for the appointment.

(3) An administrator appointed pursuant to subsection (1) shall:

(a) prepare, based on the records of the irrigation district and to the best of the administrator's ability, and submit to the minister a statement of assets, liabilities, irrigation works, water service agreements and contracts of the irrigation district;

(b) prepare and submit to the minister a plan to fairly, equitably and promptly deal with the assets, liabilities, irrigation works, water service agreements and contracts of the irrigation district; and

(c) mail to each district consumer of the irrigation district a letter informing the district consumer of the contents of the plan mentioned in clause (b).

(4) The irrigation district must provide the administrator with access to all records and any information that the administrator may reasonably require.

(5) On completion of the administrator's duties pursuant to subsection (3), the administrator shall recommend to the minister whether or not the irrigation district should be wound up in accordance with the plan mentioned in clause (3)(b).

(6) If the minister accepts the recommendation of the administrator pursuant to subsection (5), the minister may order that the irrigation district be wound up.

(7) An order made pursuant to subsection (6) is final and binding on the irrigation district and its district consumers.

(8) The irrigation district ceases to operate and exist from the date of the order made pursuant to subsection (6).

(9) Subject to subsection (10), the costs of winding up the irrigation district in accordance with this section, including the costs of decommissioning any irrigation works associated with the winding-up, must be paid:

(a) out of the irrigation district's moneys; or

(b) if the assets and irrigation works of the irrigation district are sold, out of the proceeds of sale of the assets and irrigation works of the irrigation district.

(10) If the costs of winding up exceed the amount of the moneys of the irrigation district and proceeds of sale available pursuant to subsection (9), the minister may pay the excess costs.

(11) Any land or interest in land or any assets of the irrigation district, including any moneys of the irrigation district or proceeds of sale available pursuant to subsection (9), that have not been disposed of when the irrigation district is wound up are forfeited to and vest in the Crown.

Appointments to district board by minister

17(1) Any appointment made by the minister pursuant to subsection 2-20(2) of the Act must be made by minister's order.

(2) A member appointed pursuant to subsection (1):

- (a) must be appointed for a one-year term and until a successor is appointed; and
- (b) is eligible for reappointment.

27 Mar 2020 cI-14.2 Reg 1 s17.

Fees for irrigation certificates

18(1) For the purposes of clause 3-2(1)(c) of the Act and subject to subsection (2), the fees set out in the table in the Appendix are the fees payable by a person who applies for an irrigation certificate.

(2) In addition to the fees set out in the table in the Appendix, the minister may require that an applicant pay an additional fee based on the minister's estimate of the costs for any additional investigations to be conducted to make a determination pursuant to subsection 3-2(2) of the Act.

(3) The minister may retain any technical or professional advisers that the minister considers appropriate to assist with any of the investigations conducted to make a determination pursuant to subsection 3-2(2) of the Act.

(4) The applicant shall pay to the minister all fees mentioned in this section when requested by the minister.

(5) All fees paid to the minister by an applicant pursuant to this section are non-refundable whether or not the minister determines that it is appropriate to issue an irrigation certificate for the land that is the subject of the application.

27 Mar 2020 cI-14.2 Reg 1 s18.

Irrigation replacement funds and irrigation works management plans

19(1) For the purposes of clause 4-1(1)(b) of the Act, an irrigation works management plan must be completed in a form and manner satisfactory to the minister and must include:

- (a) the estimated or planned timing and cost of irrigation works renewal or replacement;
- (b) the irrigation district's estimated annual contributions to its irrigation replacement fund;
- (c) a description of all irrigation works, including the name and type, number and location;
- (d) a detailed description of any project to renew, replace or decommission irrigation works, including an explanation of why the project is planned, a description of how the project will be completed and an expected timeline of work completion;
- (e) any other information that the minister may reasonably require.

- (2) An irrigation works management plan must be updated annually and submitted to the minister for approval by March 31 of each year.
- (3) An irrigation district may at any time submit changes or amendments to its irrigation works management plan to the minister for approval.
- (4) After an irrigation district submits an irrigation works management plan or a change or amendment to an irrigation works management plan to the minister, the minister may do any or all of the following:
 - (a) approve the irrigation works management plan or the change or amendment to the irrigation works management plan, on any terms and conditions that the minister considers appropriate;
 - (b) request that the irrigation district provide additional information or documentation within the period set by the minister;
 - (c) provide comments to the irrigation district;
 - (d) suggest or request that the irrigation district make changes to its irrigation works management plan or to the changes or amendments to the irrigation works management plan;
 - (e) request a meeting with the irrigation district within the period set by the minister.
- (5) If the minister requests that additional information or documentation be provided pursuant to clause (4)(b), the irrigation district shall provide the information or documentation to the minister within the period set by the minister.
- (6) If, after meeting with the irrigation district, the minister determines that the irrigation works management plan does not establish a sufficient irrigation replacement fund for the purpose of renewing or replacing the irrigation district's irrigation works, the minister:
 - (a) shall communicate this determination promptly to the irrigation district; and
 - (b) may require the irrigation district to make changes to the irrigation works management plan.
- (7) In requiring changes pursuant to clause (6)(b), the minister shall consider:
 - (a) the best interests of the irrigation district and its district consumers;
 - (b) the ability of district consumers to pay the annual levy;
 - (c) the best interests of the public and the irrigation industry as a whole;
 - (d) the condition of the irrigation works;
 - (e) the current and forecasted amount in the irrigation replacement fund;
 - (f) any other factors that the minister considers relevant to determining the sufficiency of the irrigation works management plan and the irrigation replacement fund.

(8) The minister may inspect the irrigation district's irrigation works at any time to ensure the irrigation district is adhering to the irrigation works management plan and to ensure that any work completed meets applicable engineering practices and standards.

27 Mar 2020 cI-14.2 Reg 1 s19.

Board of directors of ICDC

20(1) For the purposes of subsection 5-7(2) of the Act, members of the ICDC board are to be elected or appointed in accordance with this section.

(2) The minister may, in writing, appoint not less than 1 person and not more than 2 persons to the board.

(3) In addition to the members appointed by the minister, the board shall be composed of not less than 5 and not more than 9 district consumers, intensive irrigators or prescribed persons who are elected in accordance with ICDC's bylaws.

(4) A member appointed pursuant to subsection (2):

- (a) is appointed for a 3-year term and until a successor is appointed; and
- (b) is eligible for reappointment.

(5) A member elected pursuant to subsection (3) is elected for a 3-year term and until a successor is elected.

27 Mar 2020 cI-14.2 Reg 1 s20.

Requests for refunds

21 For the purposes of clause 5-17(1)(b) of the Act, a written request for a refund of an annual charge levied by ICDC must contain the following:

- (a) the name and mailing address of the person requesting the refund;
- (b) the description of the parcel of land that is the subject of the annual charge;
- (c) if applicable, the name of the irrigation district to which the person belongs;
- (d) the amount of the annual charge sought to be refunded;
- (e) the reason for requesting the refund.

27 Mar 2020 cI-14.2 Reg 1 s21.

Refunds

22 For the purposes of clause 5-17(2)(b) of the Act, ICDC shall:

- (a) verify that the person requesting the refund has paid the annual charge in full to ICDC; and
- (b) if ICDC verifies that the person requesting the refund has paid the annual charge in full to ICDC, refund the annual charge by way of cheque:
 - (i) made payable to the person requesting the refund; and
 - (ii) mailed to that person's mailing address as set out in the request for the refund.

27 Mar 2020 cI-14.2 Reg 1 s22.

Prescribed circumstances for the purposes of subsection 6-6(2) of the Act

23(1) In this section:

- (a) **“seepage”** means the escape of water from any irrigation works through porous soil or construction material;
 - (b) **“seepage control plan”** means a seepage control plan and any subsequent seepage control plan prepared by an irrigation district pursuant to this section.
- (2) For the purposes of subsection 6-6(2) of the Act and subject to subsection (6), an irrigation district is liable for personal injury or damage to property if the irrigation district or any officer, employee or agent of the irrigation district is negligent.
- (3) The minister may provide an irrigation district with the opportunity to submit a seepage control plan in the form and manner required by the minister.
- (4) If the minister provides an irrigation district with the opportunity to submit a seepage control plan, the minister may:
- (a) approve the seepage control plan, on any terms and conditions that the minister considers appropriate, if the plan provides adequate protection to landowners and complies with any policies that the minister has established with respect to seepage control;
 - (b) refuse to approve the seepage control plan if the plan fails to provide adequate protection to landowners or fails to comply with any policies that the minister has established with respect to seepage control.
- (5) If the minister refuses to approve a seepage control plan pursuant to clause (4)(b), the minister shall notify the irrigation district along with written reasons.
- (6) An irrigation district, and any officer, employee or agent of the irrigation district, is not negligent for the purposes of subsection (2) if:
- (a) the irrigation district submits a seepage control plan pursuant to subsection (3);
 - (b) the minister approves the seepage control plan;
 - (c) the irrigation district complies with the seepage control plan and any terms and conditions of the seepage control plan; and
 - (d) the irrigation district carries out the seepage control plan with reasonable diligence.
- (7) If the minister establishes policies for the purposes of these regulations, the minister shall cause those policies to be made public in any manner that the minister considers appropriate, including by publishing them on the ministry’s website.

I-14.2 REG 1**IRRIGATION, 2020****RRS c I-14.1 Reg 1 repealed**

24 *The Irrigation Regulations* are repealed.

27 Mar 2020 cI-14.2 Reg 1 s24.

Coming into force

25(1) Subject to subsection (2), these regulations come into force on the day on which section 1-1 of *The Irrigation Act, 2019* comes into force.

(2) If section 1-1 of *The Irrigation Act, 2019* comes into force before the day on which these regulations are filed with the Registrar of Regulations, these regulations come into force on the day on which they are filed with the Registrar of Regulations.

27 Mar 2020 cI-14.2 Reg 1 s25.

Appendix**TABLE**

[Section 18]

Fees

In this Table, “**parcel of land**” means a parcel or parcels of land including a maximum of 64.75 hectares or 160 acres.

Item	Description	Amount (\$)
1.	Irrigation Certificate	
	(a) if a soil investigation has already been conducted by a third party	500 per parcel
	(b) if a soil investigation must be conducted by the ministry:	
	(i) for applications received during the period commencing on the date on which these regulations come into force and ending on March 31, 2025	2,200 per parcel
	(ii) for applications received during the period commencing on April 1, 2025	2,400 per parcel

27 Mar 2020 cI-14.2 Reg 1.