

Western Australia

Rights in Water and Irrigation Act 1914²

Ord Irrigation District By-laws 1963

As at 03 Sep 2012

Version 01-d0-01

Extract from www.slp.wa.gov.au, see that website for further information

Ord Irrigation District By-laws 1963

CONTENTS

Division I — Preliminary		
1.	Citation	1
1A.	Application	1
3.	Interpretation	1
Division II — Protection of water, grounds, works, etc., from trespass and injury		
4.	Unauthorised entry	2
4A.	Boating	2
4B.	Corporation may set aside areas for boating, swimming and water-skiing	3
5.	Camp fires	3
6.	Flora and fauna protected	3
7.	Endangering works	4
8.	Rubbish	4
9.	Unauthorised water	6
10.	Interference with works	6
11.	Animals straying	7
11A.	Drainage waters	7
Division III — Conditions governing the supply and control of water		
12.	Basis of supply	8
13.	Zones	8
14.	Zone period of watering	8
15.	Application for watering	8
16.	Supply of water	9
17.	Occupier's distributing system	9
18.	Regulating supply	9

Contents

19.	Delivery outlets	10
22.	Waste of water	10
31.	Persons supplied with water to provide storage receptacles	11
31A.	Pipe and pump supplies	11
	Division V — Miscellaneous	
34.	Breach of by-laws — Penalties	13
	Notes	
	Compilation table	14
	Provisions that have not come into operation	15

Ord Irrigation District By-laws 1963

Division I — Preliminary

1. Citation

These by-laws may be cited as the *Ord Irrigation District By-laws 1963*¹.

[By-law 1 inserted in Gazette 29 Aug 1980 p. 3063; amended in Gazette 29 Jun 2007 p. 3244.]

1A. Application

These by-laws shall have and take effect in the Ord Irrigation District constituted under the provisions of the *Rights in Water and Irrigation Act 1914* (as amended)².

[By-law 1A (formerly by-law 1) amended in Gazette 29 Aug 1980 p. 3063.]

[2. Deleted in Gazette 19 Jul 1985 p. 2504.]

3. Interpretation

In these by-laws unless the context requires otherwise —

- (a) ***District*** means the Ord Irrigation District constituted under the Act;

fauna means the vertebrate fauna which is wild by nature and is ordinarily to be found in a condition of natural liberty in the whole or a part or parts of the State and which is indigenous or introduced and includes any

bl. 4

kind, species, sex and individual member of the fauna and also includes terrestrial or marine mammals, birds and reptiles;

the Act means the *Rights in Water and Irrigation Act 1914* (as amended)².

[(b) deleted]

[By-law 3 amended in Gazette 23 Apr 1969 p. 1294; 19 Jul 1985 p. 2504.]

[Division 1A (r. 3A) deleted in Gazette 19 Jul 1985 p. 2504.]

Division II — Protection of water, grounds, works, etc., from trespass and injury

4. Unauthorised entry

Trespassing within the fenced-off ground adjacent to or reserved for water supply or irrigation works, or the entering without proper authority upon any water or irrigation work not open to the public, is prohibited.

4A. Boating

A person shall not —

- (a) use a boat on Lake Kununurra within 1.5 kilometres of the Kununurra Diversion Dam without the permission of the Corporation when a red warning flag is displayed adjacent to the dam control tower;
- (b) take a boat within 100 metres of the upstream face of the Kununurra Diversion Dam or within the area marked off by buoys adjacent to the spillway on Lake Argyle;
- (c) within 8 kilometres of the upstream face of the Kununurra Diversion Dam, drive a motor boat at a speed exceeding 5 knots, within 30 metres of the banks;
- (d) moor a boat on Lake Kununurra or Lake Argyle without the permission of the Corporation;

- (e) ply for hire with a boat or boats on Lake Kununurra or Lake Argyle without the permission of the Corporation;
- (f) moor or navigate a boat on Lake Kununurra or Lake Argyle in such a position or manner as to obstruct, impede or otherwise interfere with or endanger the safety of other boats or persons;
- (g) organise, promote or conduct a regatta or display of aquatic sports on Lake Kununurra or Lake Argyle without the permission of the Corporation.

[By-law 4A inserted in Gazette 12 Oct 1973 p. 3734; amended in Gazette 28 Nov 1975 p. 4303; 19 Jul 1985 p. 2505-6; 29 Dec 1995 p. 6329.]

4B. Corporation may set aside areas for boating, swimming and water-skiing

- (1) The Corporation may from time to time set aside and designate, by exhibiting appropriate signs and buoys on the banks and waters of Lake Kununurra and Lake Argyle, areas within which swimming, boating or water-skiing is permitted at all times or is restricted or prohibited.
- (2) The designation of areas under sub-by-law (1) has the effect of prohibiting other areas from being used for that purpose.

[By-law 4B inserted in Gazette 12 Oct 1973 p. 3734; amended in Gazette 19 Jul 1985 p. 2505-6.]

5. Camp fires

Camping or lighting of fires on any Government water reserve, or in the immediate vicinity of any reservoir within the boundaries of the District, except on land set apart for such purposes, is prohibited.

6. Flora and fauna protected

- (1) The removal, plucking, or damaging of any wildflower, shrub, bush, tree or other plant growing on any land reserved for or

bl. 7

vested in the Corporation within one kilometre of any reservoir and within the District is prohibited.

- (2) The discharging of firearms and the shooting, trapping or taking of fauna on any works or on any land reserved for or vested in the Corporation within 1.5 kilometres of any dam is prohibited.

[By-law 6 amended in Gazette 23 Apr 1969 p. 1294; 12 Oct 1973 p. 3734; 28 Nov 1975 p. 4303; 19 Jul 1985 p. 2505-6; 29 Dec 1995 p. 6329.]

7. Endangering works

- (1) A vehicle, conveyance, item of plant, or animal shall not be driven, operated, taken, or ridden in such a manner as to endanger or damage the channels, structures, channel access roads or any works, or shall not be taken across the same, except at places where crossings are provided.
- (2) No pumping equipment, pipeline, engine, road, jetty or similar structure is to be installed or constructed on the land abutting any reservoir, river or other works without the permission of the Corporation and any such works constructed with the permission of the former Minister, the former Authority or the Corporation shall be maintained in a state satisfactory to the Corporation.

[By-law 7 inserted in Gazette 12 Oct 1973 p. 3734; amended in Gazette 19 Jul 1985 p. 2504 and 2506; 29 Dec 1995 p. 6328.]

8. Rubbish

- (1) A person shall not cast away, throw or deposit or cause to be deposited on any works or in the vicinity of any works any rubbish, litter or other objectionable matter of any kind or in any place where it, or its components is, or is likely to be, or become, a source of pollution.
- (2) A person shall not carry on any operations or do any act which creates or tends to create any nuisance on or in the vicinity of any works.

- (3) An occupier of property or a person using a boat shall not allow any sullage or effluent containing —
- (a) sewage, unless treated to a standard approved by the Corporation;
 - (b) acidity or alkalinity outside the range of a pH value between pH5 and pH9;
 - (c) poisons; or
 - (d) any substance which is likely —
 - (i) to contribute to the formation of sludge or other deposit;
 - (ii) to contribute to the formation of scum, fat, oil, grease or floating material;
 - (iii) to contribute to the formation of objectionable odours or discoloration;
 - (iv) to be injurious to marine or animal or human life; or
 - (v) to deplete excessively the oxygen content of waters,
- to be discharged in or upon any works.
- (4) Without limiting the generality of the provisions of sub-by-law (3), wastes shall not be discharged into any of the waters in any works —
- (a) if it is reasonably practicable to dispose of them satisfactorily, in some other manner;
 - (b) unless every reasonable and practicable step has been taken to improve the quality and appearance of the wastes, prior to discharge; and
 - (c) unless they conform with a bacterial, physical and chemical composition approved by the Corporation.

[By-law 8 inserted in Gazette 12 Oct 1973 p. 3734-5; amended in Gazette 19 Jul 1985 p. 2505-6; 29 Dec 1995 p. 6329.]

bl. 9

9. Unauthorised water

No person shall take or use or cause to be taken or used any water from any works without the authority of the Corporation, and no person shall allow any water supplied to him by the Corporation to run to waste either on public roads or on private or public lands or otherwise.

[By-law 9 amended in Gazette 19 Jul 1985 p. 2505-6; 29 Dec 1995 p. 6328 and 6329.]

10. Interference with works

- (1) A person shall not, without the consent of the Corporation —
- (a) trespass upon, injure or interfere in any way with any works;
 - (b) do or cause to be done anything likely at any time to injure or interfere with any works;
 - (c) plant any tree or noxious weed within such distance from any works that any part of the tree or noxious weed or any roots thereof at some or any future time will be likely to injure or interfere with any works;
 - (d) fish from the structure of the Kununurra Diversion Dam or from any part of the bed of the river for a distance of 200 metres downstream of the Diversion Dam structure.
- (2) The Corporation, any officer of the Corporation or any person authorised by the Corporation may, subject to section 26H(1a) of the Act, cut down, destroy, dig up and remove from any land any tree or noxious weed that is or is likely to become injurious to or an interference with any works.

[By-law 10 amended in Gazette 12 Oct 1973 p. 3735; 28 Nov 1975 p. 4303; 19 Jul 1985 p. 2504-6; 29 Dec 1995 p. 6329.]

11. Animals straying

- (1) No person owning or having the right of control of any animal shall drive, or allow the same to stray, upon any works.
- (2) Where a property is traversed by or abuts a channel or drain of the Corporation, the occupier of the property shall, before allowing any stock to depasture on the property, erect and maintain a fence on an alignment outside the bank of the channel or drain.
- (3) A person guilty of any contravention of this by-law shall in addition to the penalties prescribed in by-law 34 be liable for all damage that may thereby be caused to any works.

*[By-law 11 amended in Gazette 19 Jul 1985 p. 2505;
29 Dec 1995 p. 6329.]*

11A. Drainage waters

- (1) A person shall not allow drainage waters to escape from his land, except through a drainage inlet structure provided by the former Minister, the former Authority or the Corporation.
- (2) Where the Corporation is of the opinion that, for the drainage or better drainage of a parcel of land, it is necessary to construct, clean or maintain a drain on the land, the Corporation may serve notice on the owner requiring him, within a time therein specified, to do such of those things as the case may require; and where the requirement is for the construction of a drain, the notice shall specify the nature of the drain and direction in which it is to be constructed.
- (3) Where the owner of land fails, within the time therein specified, to comply with a notice served pursuant to sub-by-law (2), the Corporation may carry out the work required by the notice to be done and may recover the cost of the work in any court of competent jurisdiction.

bl. 12

[By-law 11A inserted in Gazette 14 Jun 1967 p. 1585; amended in Gazette 19 Jul 1985 p. 2505-6; 29 Dec 1995 p. 6328 and 6329.]

Division III — Conditions governing the supply and control of water

12. Basis of supply

The Corporation may from time to time determine the basis on which water for irrigation shall be supplied within the District.

[By-law 12 amended in Gazette 19 Jul 1985 p. 2505-6; 29 Dec 1995 p. 6329.]

13. Zones

For the purpose of determining the times or period for supplying water for irrigation, the District may be divided into zones decided upon by the Corporation from time to time.

[By-law 13 amended in Gazette 19 Jul 1985 p. 2505-6; 29 Dec 1995 p. 6329.]

14. Zone period of watering

- (1) The Corporation may from time to time determine the period of watering applicable to each zone in the District and cause to be prepared a programme of waterings in accordance with the determination.
- (2) Full particulars of every programme of waterings under this by-law shall be publicly notified at the local office of the District.

[By-law 14 amended in Gazette 19 Jul 1985 p. 2505-6; 29 Dec 1995 p. 6329.]

15. Application for watering

Every application for a watering for irrigation shall be made in writing in the form prescribed by the Corporation, and shall be

lodged at the District Office at least 3 days prior to the commencement of the zone period applicable to the land referred to in the application.

*[By-law 15 amended in Gazette 19 Jul 1985 p. 2505-6;
29 Dec 1995 p. 6329.]*

16. Supply of water

On receipt of an application for watering for irrigation the Corporation may, at the times and in the manner and in the quantities fixed by the Corporation, subject to payment of irrigation charges due, and subject also to limitation of waterings as hereinafter provided in these by-laws, supply water, and to such point or points as in the opinion of the Corporation may be necessary.

*[By-law 16 amended in Gazette 19 Jul 1985 p. 2505-6;
14 Jul 1987 p. 2657; 29 Dec 1995 p. 6329.]*

17. Occupier's distributing system

The occupier of land to be watered shall provide and maintain efficient distribution channels to the satisfaction of the Corporation, and failing such provision, the Corporation shall have the power to refuse the supply of water until deficiencies have been remedied to its satisfaction.

*[By-law 17 amended in Gazette 19 Jul 1985 p. 2505-6;
29 Dec 1995 p. 6328 and 6329.]*

18. Regulating supply

The Corporation, any officer of the Corporation or any person authorised by the Corporation may, subject to section 26H(1a) of the Act, at any time, enter upon any holding for the purpose of inspecting or regulating the water supply, or for both such purposes, and in the event of any water being taken or used in an unauthorised manner, or being unnecessarily wasted, shall have the power to stop all further supply of water; but this

bl. 19

by-law shall not be construed in such manner as to relieve any person from any other penalties prescribed in these by-laws.

*[By-law 18 amended in Gazette 19 Jul 1985 p. 2505;
29 Dec 1995 p. 6329.]*

19. Delivery outlets

All persons receiving water from any works shall take delivery thereof through the respective outlets, at such times and in such order and in such manner as the Corporation may direct, and the outlets for the delivery of water shall be operated only by the Corporation, officers of the Corporation or persons authorised by the Corporation.

*[By-law 19 amended in Gazette 19 Jul 1985 p. 2505-6;
29 Dec 1995 p. 6329.]*

[20. Deleted in Gazette 14 Jul 1987 p. 2658.]

[21. Deleted in Gazette 27 Jun 1986 p. 2138.]

22. Waste of water

Every occupier shall take all necessary precautions to prevent unnecessary waste during the watering of the land in relation to which the water is supplied.

[By-law 22 amended by 14 Jul 1987 p. 2657.]

[23. Deleted in Gazette 14 Jul 1987 p. 2658.]

[Division IV heading deleted in Gazette 14 Jul 1987 p. 2658.]

[24. Deleted in Gazette 27 Jun 1986 p. 2138.]

[25-26. Deleted in Gazette 14 Jul 1987 p. 2658.]

[27. Deleted in Gazette 27 Jun 1986 p. 2138.]

[28. Deleted in Gazette 14 Jul 1987 p. 2658.]

[29. Deleted in Gazette 27 Jun 1986 p. 2138.]

[30. Deleted in Gazette 29 Jun 2007 p. 3244.]

31. Persons supplied with water to provide storage receptacles

[(1) deleted]

- (2) Every person supplied with water for stock or for domestic purposes shall at his own expense provide and maintain a suitable receptacle for the storage of the water supplied.

*[By-law 31 amended in Gazette 14 Jul 1987 p. 2657;
29 Jun 1988 p. 2125.]*

31A. Pipe and pump supplies

- (1) The Corporation may in respect of any land within the irrigation district, grant to the owner or occupier of that land, or to both of them, permission to take water from any work by means of pumping, or may construct works to supply water to that land, subject in either case to the condition that the water is taken as and when it is available in the channel, drain, watercourse or other work and no special service for the individual consumer by the Corporation is involved.

[(2) deleted]

- (3)(a) The Corporation may from time to time limit either or both the area of land to be watered and the amount of water to be supplied under the provisions of this by-law.
- (b) The Corporation may at any time in its discretion cancel any permission granted by the former Minister, the former Authority or the Corporation under sub-by-law (1).
- (4)(a) Where it is necessary for the Corporation to construct works for the purpose of supplying water under the provisions of this by-law, either or both the owner and occupier shall be liable to pay the cost of constructing those works, plus a capitalised maintenance charge determined by the Corporation.

bl. 34

- (b) Access to the offtake, pump or other means of supply shall be constructed in a manner approved by the Corporation and maintained to the satisfaction of the Corporation.
- (c) The owner or occupier of land supplied with water in accordance with the provisions of sub-by-law (1) shall be responsible to safeguard his plant and equipment from any damage which may result from the operation of the Corporation's works.
- (d) Where any offtake, pump or other means of supply has been installed or left in place without the Corporation's permission and where the owner or occupier has been notified in writing to remove same and has not done so within 14 days then the Corporation may direct removal forthwith and may confiscate the plant and recover the cost of so doing from the owner or occupier.
- (e) The Corporation may remove forthwith any offtake, pump or other means of supply which are endangering works or hindering operation of works and may recover the cost of so doing from the owner or occupier.
- (5) Applications for any of the services referred to in this by-law shall be in writing and be made on the prescribed form.

[By-law 31A inserted in Gazette 12 Oct 1973 p. 3735-6; amended in Gazette 28 Nov 1975 p. 3403; 28 Aug 1981 p. 3576-7; 31 Aug 1984 p. 2809; 28 Jun 1985 p. 2340; 19 Jul 1985 p. 2505-6; 27 Jun 1986 p. 2139; 14 Jul 1987 p. 2658; 29 Dec 1995 p. 6328 and 6329.]

[32. Deleted in Gazette 27 Jun 1986 p. 2139.]

Division V — Miscellaneous

[33. Deleted in Gazette 19 Jul 1985 p. 2505.]

34. Breach of by-laws — Penalties

Any person who commits a breach of any of the foregoing by-laws, or who refuses or neglects to obey any injunction in any such by-law, or to comply with any requirements therein contained, is liable upon conviction to a penalty not exceeding \$2 000, and, in the case of a continuing breach, to a further penalty not exceeding \$200 for each day the offence continues after notice has been given by or on behalf of the Corporation to the offender.

*[By-law 34 amended in Gazette 17 Aug 1966 p. 2221;
19 Jul 1985 p. 2505-6; 29 Dec 1995 p. 6329.]*

[Schedule deleted in Gazette 29 Jun 2007 p. 3244.]

Notes

¹ This is a compilation of the *Ord Irrigation District By-laws 1963* and includes the amendments made by the other written laws referred to in the following table ^{1a}. The table also contains information about any reprint.

Compilation table

Citation	Gazettal	Commencement
Untitled by-laws ³	18 Jul 1963 p. 2044-8	18 Jul 1963
Untitled by-laws	17 Aug 1966 p. 2220-1	17 Aug 1966
Untitled by-laws	14 Jun 1967 p. 1585	14 Jun 1967
Untitled by-laws	23 Apr 1969 p. 1294	23 Apr 1969
Untitled by-laws	2 Jul 1969 p. 1953-4	2 Jul 1969
Untitled by-laws	12 Oct 1973 p. 3734-6	12 Oct 1973
Untitled by-laws	28 Nov 1975 p. 4303	28 Nov 1975
<i>Ord Irrigation District (Amendment By-laws) 1980</i>	29 Aug 1980 p. 3063	1 Sep 1980 (see bl. 2)
<i>Ord Irrigation District Amendment By-laws 1981</i>	28 Aug 1981 p. 3576-7	1 Sep 1981 (see bl. 3)
<i>Ord Irrigation District Amendment By-laws 1984</i>	31 Aug 1984 p. 2809	1 Sep 1984 (see bl. 2)
<i>Ord Irrigation District Amendment By-laws 1985</i>	28 Jun 1985 p. 2339-40	1 Jul 1985 (see bl. 2)
<i>Ord Irrigation District Amendment By-laws (No. 2) 1985</i>	19 Jul 1985 p. 2504-6	19 Jul 1985
<i>Ord Irrigation District Amendment By-laws 1986</i> ⁴	27 Jun 1986 p. 2138-9	27 Jun 1986
<i>Water Authority Amendment By-laws 1987 Pt. IX</i>	14 Jul 1987 p. 2649-58	14 Jul 1987
<i>Water Authority Amendment By-laws 1988 Pt. 6</i>	29 Jun 1988 p. 2122-6	1 Jul 1988 (see bl. 3)
<i>Water Authority Amendment By-laws 1989 Pt. 8</i>	29 Jun 1989 p. 1883-91	1 Jul 1989 (see bl. 3)
<i>Water Authority Amendment By-laws 1990 Pt. 7</i>	29 Jun 1990 p. 3240-8	1 Jul 1990 (see bl. 3)
<i>Water Authority Amendment</i>	28 Jun 1991	1 Jul 1991 (see bl. 3)

Citation	Gazettal	Commencement
<i>By-laws 1991 Pt. 7</i>	p. 3281-9	
<i>Water Authority Amendment By-laws 1992 Pt. 7⁵</i>	26 Jun 1992 p. 2832-44	1 Jul 1992 (see bl. 3)
<i>Water Authority Amendment By-laws 1993 Pt. 7⁶</i>	1 Jul 1993 p. 3238-50	1 Jul 1993
<i>Water Authority Amendment By-laws 1994 Pt. 7⁷</i>	29 Jun 1994 p. 3159-70	1 Jul 1994 (see bl. 2)
<i>Water Authority Amendment By-laws 1995 Pt. 7⁸</i>	30 Jun 1995 p. 2767-76	1 Jul 1995 (see bl. 2)
<i>Water Agencies (Amendment and Repeal) By-laws 1995 Pt. 9</i>	29 Dec 1995 p. 6305-32	1 Jan 1996 (see bl. 2 and <i>Gazette</i> 29 Dec 1995 p. 6291)
Reprint 1: The Ord Irrigation District By-laws as at 8 Aug 2003 (includes amendments listed above) (correction in <i>Gazette</i> 16 Sep 2003 p. 4103)		
<i>Water Agencies Amendment By-laws 2007 Pt. 7⁹</i>	29 Jun 2007 p. 3233-44	1 Jul 2007 (see bl. 2)

^{1a} On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

Short title	Number and year	Assent	Commencement
<i>Water Services Legislation Amendment and Repeal Act 2012 s. 199(c)</i> ¹⁰	25 of 2012	3 Sep 2012	To be proclaimed (see s. 2(b))

² These by-laws have effect for the purposes of the *Rights in Water and Irrigation Act 1914* but the formal power to make them is now given by the *Water Agencies (Powers) Act 1984 s. 34*.

³ Now known as the *Ord Irrigation District By-laws 1963*; citation inserted (see note under bl. 1).

⁴ The *Ord Irrigation District Amendment By-laws 1986* bl. 8 reads as follows:

“

8. Savings

Nothing in these by-laws affects the application of the principal by-laws, as in force before the coming into operation of these by-laws, in relation to —

- (a) the payment of rates and charges levied on land in respect of a rating year commencing before 1 July 1986; or
- (b) the amount of a charge prescribed for water taken or supplied, or for a re-connection, where the water was taken or supplied or the re-connection was effected, as the case may be, before 1 July 1986.

”.

⁵ The *Water Authority Amendment By-laws 1992* bl. 2 reads as follows:

“

2. Application

Nothing in these by-laws affects the application after 1 July 1992 of a by-law in force before that day in so far as that by-law relates to a fee or charge for a period commencing before that day or to a fee or charge for any matter or thing done before that day.

”.

⁶ The *Water Authority Amendment By-laws 1993* bl. 2 reads as follows:

“

2. Application

Nothing in these by-laws affects the application after 1 July 1993 of a by-law in force before that day in so far as that by-law relates to a fee or charge for a period commencing before that day or to a fee or charge for any matter or thing done before that day.

”.

⁷ The *Water Authority Amendment By-laws 1994* bl. 3 read as follows:

“

3. Application

Nothing in these by-laws affects the application after 1 July 1994 of a by-law in force before that day in so far as that by-law relates to a fee or charge for a period commencing before that day or to a fee or charge for any matter or thing done before that day.

”.

⁸ The *Water Authority Amendment By-laws 1995* bl. 3 reads as follows:

“

3. Application

Nothing in these by-laws affects the application after 1 July 1995 of a by-law in force before that day in so far as that by-law relates

to a fee or charge for a period commencing before that day or to a fee or charge for any matter or thing done before that day.

”.

⁹ The *Water Agencies Amendment By-laws 2007* bl. 3 reads as follows:

“

3. Application

Nothing in these by-laws affects the application after 1 July 2007 of a by-law in force before that day insofar as that by-law relates to a fee or charge for a period commencing before that day or to a fee or charge for any matter or thing done before that day.

”.

¹⁰ On the date as at which this compilation was prepared, the *Water Services Legislation Amendment and Repeal Act 2012* s. 199(c) had not come into operation. It reads as follows:

199. Irrigation legislation repealed

These written laws are repealed:

- (c) the *Ord Irrigation District By-laws 1963*;