

2007

THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY

MURRAY DARLING BASIN AGREEMENT BILL 2007

EXPLANATORY STATEMENT

Circulated by the authority of the Minister for the Environment, Water and Climate
Change

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Explanatory Statement

Purpose

The Act approves and provides for an agreement entered into between the Commonwealth, New South Wales, Victoria, Queensland, South Australia and the Australian Capital Territory with regard to the water, land and other environmental resources of the Murray-Darling Basin.

The purpose of the inter-governmental agreement is to promote and co-ordinate effective planning and management for the equitable, efficient and sustainable use of the water, land and other environmental resources of the Murray-Darling Basin.

Background

The Murray-Darling Basin Initiative is formalised and functions through the Murray-Darling Basin Agreement 1992. New South Wales, Victoria and South Australia along with the Commonwealth were the original parties to the Agreement. Queensland joined in 1996. These jurisdictions enacted similar legislation to establish their participation.

In 1998 the Australian Capital Territory commenced participation in the Murray-Darling Basin Initiative through a Memorandum of Understanding.

At the Murray-Darling Basin Ministerial Council meeting of 16 May 2006 it was agreed by all other parties (to the existing agreement at the time) that the ACT could become a member of the Murray-Darling Basin Initiative. The Agreement sets out the basis and conditions of the operations of the Murray-Darling Basin Initiative. ACT membership is contained in Schedule H of the Agreement.

The Murray-Darling Basin Agreement is incorporated into the legislation by Schedule 1 and Schedule 2. Parts 2 and 3 of the Bill provide for the nature and arrangements surrounding ACT participation such as the appointment of an ACT Commissioner.

The Agreement establishes a Ministerial Council and the Murray-Darling Basin Commission which supervises and administers the activities under the Agreement.

It should be noted that the Murray-Darling Basin Agreement can be amended from time to time resulting in a revised Agreement. Any revised Agreement will necessitate an amendment to the legislation.

Details of the legislation

Part 1 Preliminary

Clause 1 provides for the name of the legislation as the Murray-Darling Basin Agreement Act 2007.

Clause 2 provides for the commencement as the day fixed by the Minister by written notice.

Clause 3 provides for a dictionary to be part of the legislation.

Clause 4 states that terms used in the Murray-Darling Basin Agreement are to have the same meaning as the legislation.

Clause 5 states that notes included in the Act are explanatory and are not in themselves part of the Act.

Part 2 The commission, agreement and commissioners

Clause 6 provides for the approval of the Agreement.

Clause 7 provides that the Agreement has a commission with functions given to it under the agreement.

Clause 8 states that under Schedule H of the agreement the executive must appoint a commissioner and two deputy commissioners. A territory member who is either a commissioner or deputy commissioner must not be appointed for longer than 5 years but under the Legislation Act 2001 the person may be re-appointed. The conditions of appointment of a territory member are the conditions agreed between the Executive and the member, subject to any determination under the Remuneration Tribunal Act 1995.

Clause 9 provides that the Executive may terminate the appointment of a territory member –

- (i) if the member contravenes a territory law; or
- (ii) for misbehaviour; or
- (iii) if the member becomes bankrupt or executes a personal insolvency agreement; or
- (iv) if the member is convicted, in the ACT, of an offence punishable by imprisonment for at least 1 year; or
- (v) if the member is convicted, outside the ACT, in Australia or elsewhere, of an offence that if it had been committed in the ACT, would be punishable by imprisonment for at least 1 year.

The clause stipulates that the Executive must terminate the member's appointment if the member is absent other than, for approved leave, for 14 consecutive days or for 12-month period; or for physical or mental incapacity, if the incapacity substantially affects the exercise of the member's functions.

Part 3 General

Clause 10 provides that the Supreme Court may exercise jurisdiction in relation to the commission and the commissioners in the same way as it could if the commission was a body representing the Territory and the commissioners were Territory officers. Further, if a court of the Commonwealth or a State that is a party to the agreement exercises a power under a law corresponding to the previous sentence, the commission and commissioners must comply with an order or decision of the court. This is a common provision found in the legislation of other jurisdictions that are party to the agreement.

Clause 11 provides that a rate, tax, charge or fee is not payable under an Act for an act or thing done by or for the commission. This section overrides any other legislation.

Clause 12 establishes the forms of evidence for the activities and decisions of the commission.

Clause 13 provides that the Minister must present each of the following documents to the Legislative Assembly not later than 6 sitting days after the day the Minister receives the document:

- (i) a report or statement given to the Ministerial council of the commission under the agreement (clause 84); and
- (ii) a schedule approved under the agreement, (clause 50).

Clause 14 provides for the process for the admittance of a new party to the agreement - that if the Ministerial Council approves a schedule under the agreement clause 134 (Access by New Parties) for another State to become a party to the agreement, the Minister must present a copy of the schedule to the Legislative assembly not later than 15 sitting days after the day the Ministerial Council approves the schedule. A schedule would have no effect if it is disallowed by or it is void or has ceased to have effect for another reason mentioned in clause 134 of the agreement.

Clause 15 provides that the Executive may make regulations for this Act.

SCHEDULE 1

Schedule 1 contains the Murray-Darling Basin Agreement.

SCHEDULE 2

Schedule 2 contains the Murray-Darling Basin Agreement Amending Agreement 2006. It provides amendments to the Murray-Darling Basin Agreement containing provisions approved by the Murray-Darling Basin Ministerial Council of 23 July 2003 and 30 September 2005.

A Dictionary is provided as specified in clause 3. The following are defined: agreement, amending agreement, commission, commissioner and territory member.

Financial Implications

Nil