

1993

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

MURRAY-DARLING BASIN BILL 1993

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Primary
Industries and Energy, the Hon Simon Crean, MP)



MURRAY-DARLING BASIN BILL 1993

GENERAL OUTLINE

1. The purpose of this Bill is to give effect to a revised Murray-Darling Basin Agreement between the Commonwealth, New South Wales, Victoria and South Australia for the improved management of the land, water and environmental resources of the Murray-Darling Basin. The Agreement is set out in a Schedule to the Bill. The Agreement continues the existence of the Ministerial Council comprising of up to three Ministers from each contracting government being those Ministers with principal responsibility for water, land and the environment and constituted in the previous Agreement. The function of the Murray-Darling Basin Ministerial Council is generally to consider and determine major policy issues of common interest to the Contracting Governments concerning effective planning and management for the equitable efficient and sustainable use of the water, land and other environmental resources of the Murray-Darling Basin.
2. In 1989, the Ministerial Council commenced a review of the Murray-Darling Basin Agreement to clarify the evolving role of the Council in water, land and environmental management and to provide for more efficient implementation of Council programs.
3. The main features of the revised Agreement are:
 - a Salinity and Drainage Strategy which addresses the dual problems of River Murray salinity and waterlogging and land salinisation in the Upper Murray;
 - provision for the Murray-Darling Basin Ministerial Council to approve Schedules to the Agreement to facilitate the incorporation of new measures into the Agreement, such as the accession of new parties, such as Queensland, or the institution of new strategies;
 - strengthened water quality provisions;
 - continuous water accounting formalising rules for the sharing of resources and giving each State flexibility in managing its allocation from year to year;
 - an independent President for the Commission; and
 - improved administrative procedures relating to the Commission's financial management, including the ability for the Commission, with the approval of Council, to carry-over limited funds from one year to the next and apply interest earned to items included in the annual estimates.
4. Complementary State legislation is also being enacted to give effect to the revised Agreement.

FINANCIAL IMPACT STATEMENT

5. The proposals put forward impose no additional financial obligations on the Commonwealth.

NOTES ON INDIVIDUAL CLAUSES

Clause 1: Short title

6. Formal.

Clause 2: Commencement

7. Provides that the Act will come into effect on a date to be proclaimed. Complementary legislation to give effect to the new Murray-Darling Basin Agreement has also been prepared by the three States concerned and it is the intention that the Commonwealth Act and the three State Acts should come into operation on the same day.
8. No provision has been made for an operation date six months after royal assent to guard against the possibility of the complementary State Acts not being passed in the same parliamentary session. If the Commonwealth Act were to come into effect before the State Acts it will give rise to the anomaly of two different Murray-Darling Basin Agreements being in effect.

Clause 3: Interpretation

9. This clause provides a definition and interpretation of the terms "Agreement", "Commission:", "Commonwealth member", "State" and "works".

Clause 4: Act to bind the Crown in the right of the Commonwealth

10. This clause secures the execution and enforcement of this Bill so far as the Commonwealth is concerned.

Clause 5: Approval of Agreement

11. This clause provides for approval of the new Agreement which replaces the former Agreement. The new Agreement is included in this Bill as a Schedule.

Clause 6: Appointment of Commissioners and Deputy Commissioners

12. Provides for the Governor-General to appoint two Commissioners and two Deputy Commissioners for the Commonwealth. Commonwealth Commissioners can be appointed for up to five years with eligibility for re-appointment.
13. The Agreement provides for a Commission which consists of the President and the appointed Commissioners. The Governor-General and Governors of participating States each appoint two Commissioners and two Deputy Commissioners with the independent President being appointed by the Ministerial Council.

Clause 7: Terms and conditions of appointment

14. Provides that Commonwealth members, being Commissioners or Deputy Commissioners, are appointed under terms and conditions determined by the Governor-General.

Clause 8: Defect or irregularity not to invalidate appointment

15. Provides that an irregularity or defect in the appointment of a Commonwealth member does not invalidate or call into question that appointment.

Clause 9: Remuneration and allowances

16. Provides for the determination and payment of remuneration and allowances to a Commonwealth member.

Clause 10: Resignation

17. Sets down the conditions under which a Commonwealth member may resign office. Under clause 29 of the Agreement, a Commonwealth member may at any time tender resignation of that appointment in writing addressed to the Governor-General.

Clause 11: Termination of appointment

18. Sets down the conditions under which a Commonwealth member may be removed from office.

Clause 12: Powers, functions and duties of the Commission

19. Provides that the powers, functions and duties of the Commission are as conferred on it by the Agreement.

Clause 13: Jurisdiction of the State Courts

20. The operations of the Murray-Darling Basin Commission relate almost exclusively to areas of State constitutional responsibility, rather than those of the Commonwealth. It is likely that any enforcement that may be necessary would be sought under the jurisdiction of a court of a State. This clause ensures that Commonwealth law will not exclude the jurisdiction of State courts.

Clause 14: Appropriation

21. The Agreement provides for the apportionment between the four Governments of costs incurred by the Commission in implementing the provisions of the Agreement. This clause provides for the Commonwealth share to be met out of monies appropriated by the Commonwealth Parliament.

Clause 15: Exemption from taxes and charges

22. This clause provides an exemption from taxes and charges under a law of the Commonwealth or State in regard to any act or thing done on behalf of the Commission, or in respect of any works or any property used or held on behalf of the Commission by a Contracting Government or Constructing Authority for the purposes of any works.

Clause 16: Evidence

23. The Agreement requires that the Commission keep proper minutes and records of its proceedings. In the event of a difference of opinion among the Commissioners on a particular question, it also provides for referral to an arbitrator for decision. This clause validates such minutes, records, certified copies and decisions of an arbitrator, duly authorised, as admissible evidence.

Clause 17: Certain documents to be laid before Parliament

24. The Agreement requires the Commission to submit an annual report on proceedings and activities, the extent to which objectives, policies or plans have been realised and the objectives policies or plans for future years and its financial statements, to the Ministerial Council. The Commission must also submit its financial statements to the Commonwealth auditor. The Commonwealth Auditor must report on the Commission's financial statements to the Ministerial Council. Clause 17(a) provides that these reports and statements are tabled in Parliament.
25. The Agreement also provides for the Ministerial Council to authorise works and measures necessary to promote the equitable, efficient and sustainable use of water, land and environmental resources of the Murray-Darling Basin. The Ministerial Council may include any authorised works or measures in a Schedule to the Agreement. Clause 17(b) provides that any Schedule approved by the Ministerial Council under clause 50 of the Agreement is placed before Parliament without delay.

Clause 18: Accession by new parties

26. Under clause 134 of the Agreement the Ministerial Council may approve another State becoming a party to the Agreement in a Schedule to the Agreement. Clause 18 (1) provides that this Schedule is placed before each House of the Parliament within 15 sitting days of Ministerial Council approval of the Schedule.
27. Clause 18(2) allows for such a Schedule to have no effect if it is disallowed under the terms of clause 134 of the Agreement.

Clause 19: Regulations

28. This clause authorises the making of future regulations which may be required under this Bill.

Clause 20: Amendment of Snowy Mountains Hydro-electric Power Act 1949

29. This clause amends section 5B of the Snowy Mountains Hydro-electric Power Act 1949 so as to refer to the new Agreement.

Clause 21: Repeal and transitional

30. This clause provides for the repeal of the existing Murray-Darling Basin Act 1983 which is replaced by this Bill.
31. Sub-clause 21(2) preserves the appointments of Commissioners and Deputy Commissioners appointed under the existing Act.

