

1982

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

RIVER MURRAY WATERS BILL 1982

EXPLANATORY MEMORANDUM

RIVER MURRAY WATERS BILL 1982

Purpose

The purpose of this Bill is to approve and provide for the Commonwealth's participation in a new agreement with New South Wales, Victoria and South Australia, for the control and management of the water resources of the River Murray and certain tributaries.

CLAUSE 1 - SHORT TITLE

The Act may be cited as the River Murray Waters Act 1982.

CLAUSE 2 - COMMENCEMENT

The Act is designed to come into operation on a date to be proclaimed.

Complementary legislation to give effect to the new River Murray Waters Agreement has also been prepared by the three States concerned and it is the intention of all four Governments that the Commonwealth Act and the three State Acts should come into operation at a common date.

CLAUSE 3 - INTERPRETATION

This clause contains definitions of terms referred to in the Bill.

CLAUSE 4 - APPROVAL OF AGREEMENT

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 5 - ACT TO BIND CROWN

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

CLAUSE 6 - APPOINTMENT OF COMMISSIONER AND DEPUTY COMMISSIONER

This clause provides for the appointment by the Governor-General of a Commissioner and a Deputy Commissioner for the Commonwealth for a period not exceeding 5 years in each case, with eligibility for re-appointment. As provided for in the Agreement, the Commonwealth Commissioner is also the President of the Commission. State legislation will provide for similar appointments by the Governor of each State.

CLAUSE 7 - REMUNERATION AND ALLOWANCES

This clause provides for the determination and payment of remuneration and allowances (if any) to Commonwealth members of the Commission.

CLAUSE 8 - RESIGNATION

This clause sets down the means by which a Commonwealth member of the Commission may resign his office.

CLAUSE 9 - TERMINATION OF APPOINTMENT

This clause sets down the means by which a Commonwealth member of the Commission may be removed from office.

CLAUSE 10 - JURISDICTION OF STATE COURTS

The operations of the River Murray Commission relate almost exclusively to areas of State constitutional responsibility, rather than those of the Commonwealth. It is likely, therefore, 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.

Nevertheless, this does not necessarily exclude action which could be taken under Commonwealth Acts, such as the Administrative Decisions (Judicial Review) Act.

CLAUSE 11 - APPROPRIATION OF MONEYS

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

CLAUSE 12 - EXEMPTION FROM TAXES AND CHARGES

The State authorities act as agents for the River Murray Commission for the construction of works and for holding property for the purposes of the Agreement. This clause provides for exemption from Commonwealth taxes or charges in this regard. Each State Act will contain a similar provision in respect of State taxes and charges.

CLAUSE 13 - EVIDENCE

The Agreement requires the Commission to 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 14 - CERTAIN DOCUMENTS TO BE LAID BEFORE PARLIAMENT

The Agreement requires the Commission to submit an annual report to each of the four Governments, including financial statements audited by the Commonwealth Auditor-General. This clause requires all such reports and statements to be tabled in Parliament.

CLAUSE 15 - REGULATIONS

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

CLAUSE 16 - AMENDMENT OF THE SNOWY MOUNTAINS HYDRO-ELECTRIC POWER ACT

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

CLAUSE 17 - REPEAL AND TRANSITIONAL

Sub-clause 17(1) provides for the repeal of the Menindee Lakes Storage Agreement Act, the provisions of which are now incorporated in the new Agreement, and for the repeal of the existing River Murray Waters Act.

Sub-clause 17(2) preserves the appointments of the Commissioner and Deputy Commissioner appointed under the existing Act.

SCHEDULE - RIVER MURRAY WATERS AGREEMENT

The Agreement replaces the former Agreement by extending the responsibilities of the River Murray Commission, established under the former Agreement and continued in existence under the new Agreement, mainly in respect of water quality matters.