



Water (Commonwealth Powers) Act 2008

Current as at 13 November 2008

Information about this reprint

This Act is reprinted as at 13 November 2008.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have been made to—

- omit provisions that are no longer required (s 40)
- omit the enacting words (s 42A)
- make all necessary consequential amendments (s 7(1)(k)).

This page is specific to this reprint. A table of reprints is included in the endnotes.

Also see endnotes for information about when provisions commenced.

Spelling

The spelling of certain words or phrases may be inconsistent with other reprints because of changes made in various editions of the Macquarie Dictionary (for example, in the dictionary, ‘lodgement’ has replaced ‘lodgment’).

Dates shown on reprints

Reprints dated at last amendment All reprints produced on or after 1 July 2002, authorised (that is, hard copy) and unauthorised (that is, electronic), are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If an authorised reprint is dated earlier than an unauthorised version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of an authorised reprint is the same as the date shown for an unauthorised version previously published, it merely means that the unauthorised version was published before the authorised version. Also, any revised edition of the previously published unauthorised version will have the same date as that version.

Replacement reprint date If the date of an authorised reprint is the same as the date shown on another authorised reprint it means that one is the replacement of the other.



Queensland

Water (Commonwealth Powers) Act 2008

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Water (Commonwealth Powers) Act 2008

[reprinted as in force on 13 November 2008]

An Act to refer certain matters relating to water management to the Commonwealth Parliament, to repeal the *Murray-Darling Basin Act 1996* and to amend for particular purposes the *Land Act 1994*, the *Land Title Act 1994*, the *Water Act 2000* and particular water resource plans

Part 1 Preliminary

1 Short title

This Act may be cited as the *Water (Commonwealth Powers) Act 2008*.

2 Commencement

Sections 8 and 17 commence on a day to be fixed by proclamation.

Part 2 Reference of matters

3 Definitions

(1) In this Act—

amendment reference means the reference under section 4(1)(b).

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Basin water resources means water resources within or beneath that part of this State that comprises the Murray-Darling Basin (as defined in the terms, or substantially in the terms, set out in the initial referred provisions), but does not include ground water resources of the Great Artesian Basin.

Commonwealth Water Act means the *Water Act 2007* of the Commonwealth, as in force from time to time.

Commonwealth Water Act instrument means any instrument (whether or not of a legislative character) that is made or issued under the Commonwealth Water Act.

critical human water needs means the needs for a minimum amount of water, that can only reasonably be provided from Basin water resources, required to meet—

- (a) core human consumption requirements in urban and rural areas; and
- (b) those non-human consumption requirements that a failure to meet would cause prohibitively high social, economic or national security costs.

express amendment of the Commonwealth Water Act means the direct amendment of the text of parts 1A, 2A, 4, 4A, 10A and 11A of that Act or of definitions of terms used in those parts (whether by the insertion, omission, repeal, substitution or relocation of words or matter) by another Commonwealth Act or by an instrument under a Commonwealth Act, but does not include the enactment by a Commonwealth Act of a provision that has or will have substantive effect otherwise than as part of the text of those parts or those definitions.

initial reference means the reference under section 4(1)(a).

initial referred provisions means the text of parts 1A, 2A, 4, 4A, 10A and 11A set out in the tabled text.

Murray-Darling Basin Agreement means the Murray-Darling Basin Agreement (a copy of which is set out in the tabled text), as amended from time to time by the parties to that Agreement in accordance with the procedure set out in that Agreement.

reference means—

- (a) the initial reference; or
- (b) the amendment reference.

referred subject-matters means any of the following—

- (a) the powers, functions and duties of Commonwealth agencies that—
 - (i) relate to Basin water resources; and
 - (ii) are conferred by or under the Murray-Darling Basin Agreement;
- (b) the management of Basin water resources to meet critical human water needs;
- (c) water charging in relation to Basin water resources (other than for urban water supply after the removal of the water from a Basin water resource);
- (d) the transformation of entitlements to water from a Basin water resource to enable trading in those water entitlements;
- (e) the application, in relation to water resources that are not Basin water resources, of provisions of the Commonwealth Water Act dealing with the subject-matters specified in paragraphs (c) and (d) (being an application of a kind that is authorised by the law of this State);
- (f) the transfer of assets, rights and liabilities of the Murray-Darling Basin Commission to the Murray-Darling Basin Authority established by the Commonwealth Water Act, and other transitional matters relating to the replacement of that Commission.

tabled text means the text of the proposed *Water Amendment Bill 2008* for a Commonwealth Act as tabled by or on behalf of the Minister for the River Murray in the House of Assembly of South Australia on 23 September 2008.

- (2) A reference in this Act to a part of (or to be inserted in) the Commonwealth Water Act includes a reference to any

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schedule to (or to be inserted in) that Act that contains provisions enacted for the purposes of that part.

4 Reference of matters

- (1) The following matters are referred to the Parliament of the Commonwealth—
 - (a) the matters to which the initial referred provisions relate, but only to the extent of the making of laws with respect to those matters by including the initial referred provisions in the Commonwealth Water Act in the terms, or substantially in the terms, set out in schedule 1 of the tabled text;
 - (b) the referred subject-matters, but only to the extent of the making of laws with respect to any such matter by making express amendments of the Commonwealth Water Act.
- (2) The reference of a matter under subsection (1) has effect only—
 - (a) if and to the extent that the matter is not included in the legislative powers of the Parliament of the Commonwealth (otherwise than by a reference for the purposes of section 51 (xxxvii) of the Constitution of the Commonwealth); and
 - (b) if and to the extent that the matter is included in the legislative powers of the Parliament of this State.
- (3) The operation of each paragraph of subsection (1) is not affected by the other paragraph.
- (4) For the avoidance of doubt, it is the intention of the Parliament of this State that—
 - (a) the Commonwealth Water Act may be expressly amended, or have its operation otherwise affected, at any time after the commencement of this Act by provisions of Commonwealth Acts whose operation is based on legislative powers that the Parliament of the

Commonwealth has apart from under the references under subsection (1); and

- (b) the Commonwealth Water Act may at any time have its operation affected, otherwise than by express amendment, at any time by provisions of Commonwealth Water Act instruments.
- (5) Despite any other provision of this section, a reference under this section has effect for a period—
- (a) beginning when this section commences; and
 - (b) ending at the end of the day fixed under section 5 as the day on which the reference is to terminate;
- but no longer.

5 Termination of references

- (1) The Governor may, at any time, by proclamation published in the gazette, fix a day as the day on which—
 - (a) the references terminate; or
 - (b) the amendment reference terminates.
- (2) The Governor may, by proclamation published in the gazette, revoke a proclamation published under subsection (1), in which case the revoked proclamation is taken (for the purposes of section 4) never to have been published.
- (3) A revoking proclamation has effect only if published before the day fixed under subsection (1).
- (4) The revocation of a proclamation published under subsection (1) does not prevent publication of a further proclamation under that subsection.
- (5) If the amendment reference has terminated, the expression *the references* in subsection (1)(a) refers to the initial reference only.

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6 Effect of termination of amendment reference before initial reference

- (1) If the amendment reference terminates before the initial reference, the termination of the amendment reference does not affect—
 - (a) laws that were made under the amendment reference before that termination (whether or not they have come into operation before that termination); or
 - (b) the continued operation in the State of the Commonwealth Water Act as in operation immediately before that termination or as subsequently amended or affected by—
 - (i) laws referred to in paragraph (a) that come into operation after that termination; or
 - (ii) provisions referred to in section 4(4)(a) or (b).
- (2) Accordingly, the amendment reference continues to have effect for the purposes of subsection (1) unless the initial reference is terminated.
- (3) Subsection (1) does not apply to or in relation to an amendment of the Commonwealth Water Act that is excluded from the operation of this section by the proclamation that terminates the amendment reference.
- (4) For the purposes of subsection (1)—
 - (a) the laws referred to in subsection (1)(a) include Commonwealth Water Act instruments; and
 - (b) the reference in subsection (1)(b) to the Commonwealth Water Act as in operation immediately before the termination of the amendment reference includes that legislation as affected by Commonwealth Water Act instruments that have come into operation before that time.

7 Evidence

- (1) A certificate of the Clerk of the House of Assembly of South Australia certifying that a document is an accurate copy of the tabled text, or is an accurate copy of a particular part or of particular provisions of the tabled text, is admissible in evidence in any proceedings and is evidence—
- (a) of the matter certified; and
 - (b) that the text of the proposed Commonwealth Bill was tabled in the House of Assembly of South Australia as referred to in the definition of *tabled text* in section 3.
- (2) Subsection (1) does not affect any other way in which the tabling or content of the tabled text, or the accuracy of a copy of the tabled text or of a part or provisions of the tabled text, may be established.

8 Repeal

The Murray-Darling Basin Act 1996, No. 78 is repealed.

Editor's note—

This provision had not commenced on or before the reprint date.

Part 3 Amendment of Water Act 2000

9 Act amended in pt 3

This part amends the *Water Act 2000*.

17 Insertion of new ch 8, pt 6

Chapter 8—

insert—

Endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). However, no amendments have commenced operation on or before that day. Future amendments of the Water (Commonwealth Powers) Act 2008 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments included	Effective	Notes
1	none	13 November 2008	majority of provs commenced

5 List of legislation

Water (Commonwealth Powers) Act 2008 No. 58

date of assent 13 November 2008

ss 1–2 commenced on date of assent

ss 8, 17 not yet proclaimed into force (see s 2)

remaining provisions commenced on date of assent

6 List of annotations

Amendment of s 26 (Moratorium notices)

s 10 om R1 (see RA s 40)

Amendment of s 46 (Content of draft water resource plans)

s 11 om R1 (see RA s 40)

Replacement of s 103 (Preparing and approving final draft resource operations plan)

s 12 om R1 (see RA s 40)

Amendment of s 104 (Public notice of intention not to proceed with making of draft resource operations plan)

s 13 om R1 (see RA s 40)

Insertion of new ss 104A and 104B

s 14 om R1 (see RA s 40)

Amendment of s 105 (Amending resource operations plan)

s 15 om R1 (see RA s 40)

Insertion of new s 105A

s 16 om R1 (see RA s 40)

Insertion of new ch 9, pt 5, div 12

s 18 om R1 (see RA s 40)

Amendment of sch 4 (Dictionary)

s 19 om R1 (see RA s 40)

PART 4—AMENDMENT OF WATER RESOURCE (BORDER RIVERS) PLAN 2003

pt 4 (ss 20–23) om R1 (see RA ss 7(1)(k) and 40)

PART 5—AMENDMENT OF WATER RESOURCE (MOONIE) PLAN 2003

pt 5 (ss 24–26) om R1 (see RA ss 7(1)(k) and 40)

PART 6—AMENDMENT OF WATER RESOURCE (WARREGO, PAROO, BULLOO AND NEBINE) PLAN 2003

pt 6 (ss 27–29) om R1 (see RA ss 7(1)(k) and 40)

PART 7—AMENDMENT OF LAND ACT 1994

pt 7 (ss 30–32) om R1 (see RA ss 7(1)(k) and 40)

PART 8—AMENDMENT OF LAND TITLE ACT 1994

pt 8 (ss 33–34) om R1 (see RA ss 7(1)(k) and 40)

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