

Legislative Council—No 40A

As reported with amendments, report adopted, Standing Orders suspended and passed remaining stages, 2 November 2006

South Australia

**Upper South East Dryland Salinity and Flood
Management (Extension of Period of Scheme)
Amendment Bill 2006**

A BILL FOR

An Act to amend the *Upper South East Dryland Salinity and Flood Management Act 2002*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Upper South East Dryland Salinity and Flood Management (Extension of Period of Scheme) Amendment Act 2006*.

5 2—Commencement

- (1) Subject to subsection (2), this Act will come into operation on 18 December 2006.
- (2) Section 4 will be taken to have come into operation on 18 June 2006.

3—Amendment provisions

10 In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Upper South East Dryland Salinity and Flood Management Act 2002*

4—Amendment of section 13—Entitlement to compensation

- (1) Section 13(1)—delete "after the expiration of the prescribed period"
- 15 (2) Section 13(2)(a)—delete "at the expiration of the prescribed period" and substitute:
at the relevant date
- (3) Section 13(2)(b)—delete "during the prescribed period" and substitute:
between the commencement of this section and the relevant date
- (4) Section 13(2)(b)—delete "the end of the prescribed period" and substitute:
20 the relevant date

(5) Section 13(3)(a)—delete "at the expiration of the prescribed period" and substitute:
at the relevant date

(6) Section 13(4)—delete "during the prescribed period" and substitute:
between the commencement of this section and the relevant date

5 (7) Section 13(5)(b)—delete "the end of the prescribed period" and substitute:
the relevant date in relation to the land

(8) Section 13(11)—delete "over the prescribed period" and substitute:
between the commencement of this section and the relevant date

(9) Section 13—after subsection (13) insert:

10 (13a) A claim for compensation under this section must be made—

(a) in the case of a claim that relates to a situation where the
relevant date occurs between 18 June 2006 and
17 December 2006 (both dates inclusive)—by 18 June 2007;

15 (b) in the case of a claim that relates to a situation where the
relevant date occurs on or after 18 December 2006—within
the period of 6 months immediately after the relevant date.

(13b) The Minister must, with respect to any parcel of land under this
section, issue a land transfer finalisation declaration within a
reasonable period after completing all relevant transfers (or, if
20 relevant, after deciding not to return any land).

(13c) If a person has a claim for compensation under subsection (3) (as the
former owner of land), the Minister must, on issuing a land transfer
finalisation declaration in relation to the relevant land, take
reasonable steps to give a copy of the notice to that person.

25 (10) Section 13(14), definition of *prescribed period*—delete the definition and substitute:
land transfer finalisation date means—

(a) unless a different date is fixed under paragraph (b)—
19 December 2010; or

30 (b) a date that is not later than 19 December 2011 fixed by the Governor
by proclamation made for the purposes of this definition;

land transfer finalisation declaration means a statement in writing issued by
the Minister in relation to a particular parcel of land in which the Minister
declares, in connection with land within a project works corridor that has
35 comprised part of that parcel, that no further land is to be transferred back to
the owner in relation to that parcel (or, if relevant, that all relevant land has
been returned or that no land at all is to be returned);

(11) Section 13(14)—after the definition of *relevant court* insert:

relevant date means—

40 (a) in relation to a parcel of land where the Minister has issued a land
transfer finalisation declaration—the date on which the land transfer
finalisation declaration is issued to the owner of the parcel of land; or

- (b) if paragraph (a) does not apply in relation to a parcel of land before the land transfer finalisation date—the land transfer finalisation date in relation to that parcel of land.

5—Amendment of section 43—ERD Committee to oversee operation of Act

- 5 (1) Section 43(1)—delete "Environment, Resources and Development Committee" and substitute:

Natural Resources Committee

- (2) Section 43(3)—delete subsection (3)

6—Insertion of section 43A

10 After section 43 insert:

43A—Upper South East Drainage Network Management Strategy

- 15 (1) The Minister must, by 19 December 2009, prepare a strategy to be called the *Upper South East Drainage Network Management Strategy*.
- (2) The Strategy must set out—
- 20 (a) the proposals of the Minister in relation to the management of Project works in the Upper South East; and
- (b) the proposals of the Minister in relation to the management of the key environmental features and significant agricultural issues in the Upper South East; and
- 25 (c) the priorities that the Minister will pursue in the management of the key environmental features and significant agricultural issues in the Upper South East, insofar as they may be relevant to the Project.
- (3) The Strategy must not be inconsistent with the State NRM Plan.
- (4) The Strategy must take into account—
- 30 (a) the provisions of any relevant management agreements under this Act; and
- (b) the provisions of any relevant regional NRM plan under the *Natural Resources Management Act 2004*; and
- (c) the provisions of any relevant environment protection policy under the *Environment Protection Act 1993*; and
- 35 (d) the provisions of any statutory instrument under a related operational Act (insofar as is relevant to the operation of this Act and reasonably practicable); and
- (e) any other matter prescribed by the regulations.
- (5) The Minister must review the Strategy at least once in every 3 years.
- (6) The Minister may amend the Strategy at any time.

(7) The Minister must, in relation to any proposal to create or amend the Strategy—

- (a) prepare a draft of the proposal; and
- (b) seek, and have regard to, the views of all relevant Ministers and prescribed bodies in relation to the proposal.

(8) The Minister must cause—

- (a) a copy of the Strategy; and
- (b) a copy of the Strategy as amended from time to time; and
- (c) a report on any review of the Strategy conducted for the purposes of this section,

to be furnished to the Natural Resources Committee of the Parliament.

(9) The Strategy is an expression of policy and does not in itself affect rights or liabilities (whether of a substantive, procedural or other nature).

(10) In this section—

related operational Act means an Act declared by the regulations to be a related operational Act;

relevant Minister means a Minister responsible for the administration of a related operational Act;

Upper South East includes any other area of the State—

- (a) that is connected to the Project Area by means of a watercourse; or
- (b) that is connected with the Project Area in a significant way by virtue of the fact that processes (including natural processes) or activities—
 - (i) that occur in the other area have a significant effect on the environment or agricultural production in a part of the Project Area; or
 - (ii) that occur in a part of the Project Area have a significant effect on the environment or agricultural production in the other area; or
- (c) that is declared by the regulations to be within the ambit of this definition.

7—Amendment of section 45—Expiry of Act

(1) Section 45(1)—delete "a proclamation under subsection (2)" and substitute:
this section

(2) Section 45(1)—delete "the fourth anniversary of the commencement of this Act" and substitute:

19 December 2009

**Upper South East Dryland Salinity and Flood Management (Extension of Period of Scheme)
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Part 2—Amendment of *Upper South East Dryland Salinity and Flood Management Act 2002*

(3) Section 45(3)—delete subsection (3)

(4) Section 45—after subsection (6) insert:

5 (6a) The expiry of this Act does not apply in relation to the operation of
section 13 and that section will continue to have full force and effect
until all steps envisaged by that section have been taken, all dates
that apply under that section have occurred, and all claims for
compensation under that section (and any related proceedings) have
been determined.

10 (6b) The expiry of this Act does not affect the Upper South East Drainage
Network Management Strategy under section 43A and the Minister
must continue to review the Strategy in accordance with the
requirements of that section until 2015.

(5) Section 45(7)—after "enactment" insert:

or expiry