

RIVER MURRAY WATERS ACT AMENDMENT ACT, 1948

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River Murray Waters Act Amendment Act, 1948, No. 54 of 1948 [Assented to 22nd December, 1948]¹.

An Act to ratify and approve an agreement for the further variation of the agreement entered into between the Prime Minister of the Commonwealth and the Premiers of the States of New South Wales, Victoria, and South Australia, respecting the River Murray and Lake Victoria and other waters, and for other purposes.

WHEREAS on the ninth day of September, nineteen hundred and fourteen, the Prime Minister of the Commonwealth of Australia, acting for and on behalf of the Commonwealth, and the Premiers of the States of New South Wales, Victoria, and South Australia, acting for and on behalf of those States respectively, entered into an agreement (in this Act referred to as "the principal agreement") respecting the River Murray and Lake Victoria and other waters subject to ratification by the Parliament of the Commonwealth and the Parliaments of the said States: Preamble.

AND WHEREAS the Parliament of the Commonwealth and the Parliaments of the said States have ratified and approved the principal agreement:

AND WHEREAS by further agreements dated the tenth day of August, nineteen hundred and twenty-three, and the twenty-third day of July, nineteen hundred and thirty-four, (in this Act respectively referred to as "the first amending agreement" and "the second amending agreement") both made between the Prime Minister of the Commonwealth of Australia and the Premiers of the States of New South Wales, Victoria, and South Australia, certain provisions of the principal agreement were modified:

AND WHEREAS the Parliament of the Commonwealth and the Parliaments of the said States have ratified and approved the first amending agreement and the second amending agreement:

AND WHEREAS the Prime Minister of the Commonwealth of Australia, acting for and on behalf of the Commonwealth and the Premiers of the said States, acting for and on behalf of those States respectively, have entered into an agreement (in this Act referred to as "the third amending agreement") to vary the principal agreement, as varied by the first amending agreement and the second amending agreement, subject to ratification by the Parliament of the Commonwealth and the Parliaments of the said States:

AND WHEREAS it is desirable to ratify and approve the third amending agreement:

¹ Came into operation 7th July, 1949: *Gaz.* 7th July, 1949, p.1.

BE IT THEREFORE ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short titles.

1. (1) This Act may be cited as the "River Murray Waters Act Amendment Act, 1948".

(2) The River Murray Waters Act, 1935, as amended by and together with this Act may be cited as the "River Murray Waters Act, 1935-1948".

(3) The River Murray Waters Act, 1935, is hereinafter referred to as "the principal Act".

Commencement.

2. This Act shall come into force on a day to be fixed by proclamation¹.

Incorporation.

3. This Act is incorporated with the principal Act and that Act and this Act shall be read as one Act.

Act to bind the Crown.

4. This Act shall bind the Crown.

Ratification of third amending agreement.

5. The third amending agreement, a copy of which is set out in the schedule to this Act, is hereby ratified and approved.

Meaning of the term "the agreement".

6. Any reference to "the agreement" in the principal Act shall be construed as a reference to the agreement set out in the first schedule in the principal Act as amended by the agreements set out in the second and third schedules to the principal Act and in the schedule to this Act.

THE SCHEDULE

THE THIRD AMENDING AGREEMENT

AGREEMENT made the twenty-sixth day of November, one thousand nine hundred and forty-eight BETWEEN THE RIGHT HONOURABLE JOSEPH BENEDICT CHIFLEY, Prime Minister of the Commonwealth of Australia for and on behalf of the Commonwealth of the first part, THE HONOURABLE JOHN MARCUS BADDELEY, Acting Premier of the State of New South Wales for and on behalf of that State of the second part, THE HONOURABLE THOMAS TUKE HOLLWAY, Premier of the State of Victoria for and on behalf of that State of the third part, and THE HONOURABLE THOMAS PLAYFORD, Premier of the State of South Australia for and on behalf of that State of the fourth part:

WHEREAS on the ninth day of September, one thousand nine hundred and fourteen, an agreement was entered into by the Prime Minister of the Commonwealth of Australia and the Premiers of the States of New South Wales, Victoria, and South Australia, with regard to the economical use of the waters of the River Murray and its tributaries for irrigation and navigation and to the reconciling of the interests of the Commonwealth and the said States which agreement was ratified by the Parliament of the Commonwealth of Australia and the Parliaments of the said States and which agreement is hereinafter referred to as "the principal Agreement":

AND WHEREAS by further agreements dated the tenth day of August, one thousand nine hundred and twenty-three and the twenty-third day of July, one thousand nine hundred and thirty-four (hereinafter respectively referred to as "the first amending agreement" and "the second amending agreement") both made between the Prime Minister of the Commonwealth of Australia and the Premiers of the States of New South Wales, Victoria, and South Australia, certain provisions of the principal agreement were modified:

AND WHEREAS the first amending agreement and the second amending agreement were both subsequently ratified by the Parliament of the Commonwealth of Australia and by the Parliaments of the said States:

AND WHEREAS at a conference between THE HONOURABLE NELSON LEMMON, Minister for Works and Housing of the Commonwealth of Australia, THE HONOURABLE JOHN JOSEPH CAHILL, Minister for Public Works of the State of New South Wales, THE HONOURABLE GEORGE WEIR, Minister for Conservation of the State of New South Wales, THE HONOURABLE JOHN GLADSTONE BLACK McDONALD, Acting Premier and Minister for Water Supply and Soldier Settlement of the State of Victoria, and THE HONOURABLE MALCOLM MCINTOSH, Minister of Works of the State of South Australia, held on the eighteenth day of October, one thousand nine hundred and

¹ Came into operation 7th July, 1949: *Gaz.* 7th July, 1949, p.1.

forty-eight, certain resolutions were agreed to with a view to further modifying certain of the provisions of the principal agreement as amended by the first amending agreement and the second amending agreement:

NOW IT IS HEREBY FURTHER AGREED as follows:—

I. Ratification and Enforcement

1. This agreement is subject to ratification by the Parliaments of the Commonwealth and of the States of New South Wales, Victoria and South Australia, and shall come into effect when so ratified.

2. The contracting Governments hereby agree to submit this agreement for ratification to the respective Parliaments of the Commonwealth and of the said States during the present session of any such Parliament or if any such Parliament is not in session at the date of this agreement then at the first session of such Parliament held after the date of this agreement.

3. Each of the contracting Governments so far as its jurisdiction extends and so far as it may be necessary shall provide for or secure the execution and enforcement of the provisions of this agreement and any Acts ratifying the same.

4. On and after the date of ratification of this agreement the principal agreement as amended by the first amending agreement and the second amending agreement shall be read and construed as if the amendments made therein by this agreement were incorporated therein.

II. Amendment of Principal Agreement as Amended by First and Second Amending Agreements

5. Clause 12 of the principal Agreement is amended by inserting after the word "them" the words "and may provide for the superannuation of such officers".

6. Clause 19 of the principal agreement is amended—

(a) by omitting from paragraph (iii) the word "first" and inserting in its stead the word "thirty-first"; and

(b) by adding after sub-paragraph (g) the following sub-paragraph:—

(h) The condition of the catchment of the upper Murray storage referred to in clause 20 of this agreement and any action taken by the commission under clause 28a thereof.

7. Clause 20 of the principal agreement as amended by clause 5 of the second amending agreement is further amended by omitting paragraphs (i) and (ii) and inserting in their stead the following paragraphs:—

(i) the provision of a storage on the upper River Murray (hereinafter referred to as the "upper Murray storage") with a capacity of approximately two million acre feet of water and with a roadway along the top of the containing dam.

(ii) the provision of a system of storage at Lake Victoria with inlet works of a capacity of six thousand acre feet per day when the water level in the storage is seven feet below the designed full supply level of the lock pool at the point of offtake from the river.

8. After clause 28 of the principal agreement the following clauses are inserted:—

28a. (1) The States of New South Wales and Victoria shall take effective measures to protect from erosion the portions of the catchment of the upper Murray storage which lie within their respective States.

(2) Each of the States of New South Wales and Victoria shall before the end of June in each year forward a report to the commission on the condition of the portion of the catchment within its territory, the measures taken and work carried out during the twelve months ending on the thirty-first day of March immediately preceding and particulars of the measures and works proposed for the next twelve months.

(3) The commission shall from time to time inspect or cause to be inspected such portions of the catchment of the upper Murray storage as it thinks fit and may indicate at any time whether in its opinion the measures taken and works carried out by the States for the protection of that catchment are effective or otherwise and in the event of it being considered by the commission that any of such measures or works are ineffective the State concerned shall take action in so far as may be practicable to make them effective.

(4) In the event of it being considered by the commission that there is need for special action the State concerned shall investigate the position and take such special action as may be required and authorized by the commission.

(5) The measures and works referred to in sub-clauses (1) and (3) of this clause shall be undertaken at the cost of the State or States concerned but the cost of the special action referred to in sub-clause (4) shall be met from the commission funds and the commission may authorize the expenditure involved.

28b. (1) The commission may from time to time initiate proposals for the better conservation and regulation of the River Murray waters and flows, may undertake preliminary investigations concerning such proposals, and may cause to be carried out by the constructing authorities surveys and investigations regarding the desirability and practicability of works or measures on or adjacent to the River Murray or any of its tributaries above Albury or the Darling River below Menindie other than works or measures provided for in

the preceding clauses of this agreement and the cost of any such surveys and investigations shall be met from the commission funds. In the case of any such works being regarded by the commission as necessary or desirable the commission shall make recommendations to the contracting Governments.

(2) The contracting Governments may authorize the construction of any such additional works as may be mutually agreed upon and the provisions of this agreement shall apply *mutatis mutandis* in respect of any such authorized additional works and the said additional works shall be controlled by the commission provided however that in respect of any such work if so agreed by the contracting Governments the cost of construction, operation and maintenance may be borne by any one or more of the contracting Governments in such shares as may be mutually agreed upon.

9. Clause 30 of the principal agreement as substituted by clause 13 of the second amending agreement is omitted and the following clause is inserted in its stead:—

30. If any one of the State contracting Governments desires to carry out on the River Murray any work other than the works provided for in the preceding clauses of this agreement either as a work of the State of such State contracting Government or as a joint work with another State contracting Government particulars of the proposal including plans of the proposed work shall be submitted by such State contracting Government or State contracting Governments to the commission. The commission may approve of such proposed work with or without alteration, and if the proposed work provides for the storage of water or will affect the discharge, flow, use or control of water in the River Murray the commission may from time to time stipulate conditions under which the said work shall be operated or controlled in so far as regulation of the river flow may be affected and the whole cost of construction, operation and maintenance of such work shall be borne by the State contracting Government or State contracting Governments concerned as may be agreed upon between them and the State contracting Government which operates the work shall cause it to be operated or controlled in such manner as may from time to time be required by the commission.

10. Clause 32 of the principal agreement as amended by clause 14 of the second amending agreement is further amended by omitting the words "not to exceed twelve million pounds" and inserting in their stead the words "at fourteen million pounds".

11. Clause 47 of the principal agreement is amended (a) by inserting after the word "from" (second occurring) the words "its share of"; and (b) by omitting the words "town supply domestic and stock supply and other uses within its territory from the main stream and to the provisions of clause 50 of this agreement" and inserting in their stead the words "clauses 50 and 51 of this agreement".

12. Clause 48 of the principal agreement is omitted and the following clause is inserted in its stead:—

48. The quantity of water to be allowed to pass in each month for supply to South Australia as set out in clause 49 of this agreement shall be contributed by New South Wales and Victoria in equal volumes, PROVIDED HOWEVER that these proportions may be varied in any month by agreement between the commissioners representing the States of New South Wales and Victoria.

13. Clause 49 of the principal agreement is amended by adding at the end thereof the words "but notwithstanding the provisions of this clause the commission may from time to time at the request of South Australia vary any of the monthly quantities set out above over a specific period subject to the sum of the quantities passed to South Australia at Lake Victoria outlet at the request of that State for any period of twelve months from June to May inclusive, not exceeding one million two hundred and fifty-four thousand acre feet, PROVIDED HOWEVER that monthly quantities in excess of those quantities stated in this clause, or in excess of those monthly quantities as varied by the commission at the request of South Australia shall not be included for the purpose of computing the annual delivery to South Australia.

14. Clause 50 of the principal agreement is omitted and the following clause is inserted in its stead:—

50. After the completion of the works specified in clause 20 of this agreement, the discharge from the upper Murray storage and the inflow to and discharge from the Lake Victoria storage shall be regulated to provide a reserve of water in storage for use in dry years, such reserve to be fixed from time to time by and drawn upon at the discretion of the commission, PROVIDED THAT the quantity of water so held in reserve shall be not less than seven hundred and fifty thousand acre feet at any time (of which not less than two hundred thousand acre feet shall be in the Lake Victoria storage) unless the commission declares a period of restriction in pursuance of clause 51 of this agreement in which case the said reserve may be drawn upon, PROVIDED HOWEVER that the volume in Lake Victoria may be reduced with a corresponding reduction in the combined volume in both storages at times other than periods of restriction if the commission is satisfied that the supply to South Australia from upstream will be sufficient to ensure that the full allocation to that State can be met until the thirtieth day of June next ensuing, and that there will be a combined reserve at that date of seven hundred and fifty thousand acre feet, including not less than two hundred thousand acre feet in the Lake Victoria storage.

15. Clause 51 of the principal agreement as amended by clause 19 of the second amending agreement is omitted and the following clause is inserted in its stead:—

51. (1) The commission may in a year of drought declare a period of restriction and may vary the provisions of this agreement respecting—

- (a) The amounts of water to be used by New South Wales and Victoria and the amount to be allowed to pass for supply to South Australia at the Lake Victoria outlet: and
- (b) The volumes to be held in reserve in the upper Murray storage and Lake Victoria storage; and
- (c) The depth of water to be maintained at weirs and locks constructed pursuant to this agreement.

(2) During a declared period of restriction the amounts of water which the States of New South Wales, Victoria and South Australia shall be entitled to use each month from the River Murray (exclusive of its tributaries below Albury) shall be in the following proportions:—

New South Wales	one million.
Victoria	one million.
South Australia	six hundred and three thousand.

PROVIDED ALWAYS AND IT IS HEREBY AGREED that—

- (a) The commission may from time to time having regard to the volumes of water in the upper Murray storage and the Lake Victoria storage, the time of the year, the requirements for irrigation in each of the States and any other relevant circumstances, vary by declaration for a period not exceeding six months at any one time the proportions set out above.
- (b) The State of New South Wales or the State of Victoria may during any month in a declared period of restriction use a greater amount of water from the River Murray than provided in the abovementioned proportions PROVIDED that the excess so utilized is contributed by the State concerned from a tributary or tributaries of the River Murray below Albury the use of the said tributaries being vested in the said States by clause 46 of this agreement.
- (c) The State of South Australia may during any month in a declared period of restriction use a greater amount of water from the River Murray than provided in the abovementioned proportion—
 - (i) if the flow in the River Murray is in excess of the quantity which can be passed into Lake Victoria, in which event the greater amount which may be used may be equal to the amount provided in the abovementioned proportion together with the said excess; or
 - (ii) if the commission considers that the flow in the River Murray is in excess of the quantity which need be passed into Lake Victoria to raise the level of that storage, in which event the State of South Australia may use a greater amount equal to the amount provided in the abovementioned proportion together with the whole of the said excess, PROVIDED however that the commission shall not arrange for such greater amount to be used if the reserve storage in Lake Victoria is less than two hundred thousand acre feet.

16. Clause 52 of the principal agreement is amended by inserting before the word "works" the word "State".

IN WITNESS whereof the said parties to these presents have hereunto set their hands and seals the day and year first above written.

SIGNED SEALED AND DELIVERED by the abovenamed
JOSEPH BENEDICT CHIFLEY in the presence of: } J. B. CHIFLEY. (L.S.)
J. H. GARRETT.

SIGNED SEALED AND DELIVERED by the abovenamed
JOHN MARCUS BADDELEY in the presence of: } J. M. BADDELEY. (L.S.)
P. H. ROPER.

SIGNED SEALED AND DELIVERED by the abovenamed
THOMAS TUKE HOLLWAY in the presence of: } T. T. HOLLWAY. (L.S.)
W. JUNGWORTH.

SIGNED SEALED AND DELIVERED by the abovenamed
THOMAS PLAYFORD in the presence of: } T. PLAYFORD. (L.S.)
E. L. BEAN.