



# **Water Amendment (Water for the Environment Special Account) Act 2013**

**No. 3, 2013**

**An Act to amend the *Water Act 2007* to establish a Special Account, and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)



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## **An Act to amend the *Water Act 2007* to establish a Special Account, and for related purposes**

[Assented to 15 February 2013]

The Parliament of Australia enacts:

### **1 Short title**

This Act may be cited as the *Water Amendment (Water for the Environment Special Account) Act 2013*.

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## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	15 February 2013
2. Schedule 1	The later of: (a) the start of the day this Act receives the Royal Assent; and (b) the start of the day the <i>Water Amendment (Long-term Average Sustainable Diversion Limit Adjustment) Act 2012</i> receives the Royal Assent.  However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	15 February 2013 (paragraph (a) applies)

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Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

## 3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## **Schedule 1—Water for the Environment Special Account**

### *Water Act 2007*

#### **1A Subsection 4(1)**

Insert:

*Lock 1* means Weir and Lock No 1 Blanchetown referred to in Schedule A to the Agreement.

#### **1B Subsection 4(1)**

Insert:

*Lower Lakes* means Lake Albert and Lake Alexandrina in South Australia.

#### **1C Subsection 4(1)**

Insert:

*Murray Mouth Barrages* means the Murray Mouth Barrages referred to in Schedule A to the Agreement.

#### **1 Subsection 4(1)**

Insert:

*Water for the Environment Special Account* means the Special Account established by section 86AB.

#### **2 After Part 2**

Insert:

## Part 2AA—Water for the Environment Special Account

### 86AA Object of this Part

- (1) The object of this Part is to enhance the environmental outcomes that can be achieved by the Basin Plan, as in force from time to time, by:
  - (a) protecting and restoring the environmental assets of the Murray-Darling Basin; and
  - (b) protecting biodiversity dependent on the Basin water resources;so as to give effect to relevant international agreements.
- (2) Without limiting subsection (1), environmental outcomes can be enhanced in the following ways:
  - (a) further reducing salinity levels in the Coorong and Lower Lakes so that improved water quality contributes to the health of insects, fish and plants that form important parts of the food chain, with the aim of achieving the following outcomes:
    - (i) the maximum average daily salinity in the Coorong South Lagoon is less than 100 grams per litre;
    - (ii) the maximum average daily salinity in the Coorong North Lagoon is less than 50 grams per litre;
    - (iii) the average daily salinity in Lake Alexandrina is less than 1000 microsiemens per centimetre for 95% of years and 1500 microsiemens per centimetre all of the time;
  - (b) keeping water levels in the Lower Lakes above:
    - (i) 0.4 metres Australian Height Datum for 95% of the time; and
    - (ii) 0.0 metres Australian Height Datum at all times;to provide additional flows to the Coorong, and to prevent acidification, acid drainage and riverbank collapse below Lock 1;

- (c) ensuring the mouth of the River Murray is open without the need for dredging in at least 95% of years, with flows every year through the Murray Mouth Barrages;
  - (d) discharging 2 million tonnes of salt per year from the Murray-Darling Basin as a long-term average;
  - (e) further increasing flows to the Coorong through the Murray Mouth Barrages, and supporting fish migration;
  - (f) in conjunction with removing or easing constraints referred to in subparagraph (h)(ii), providing opportunities for environmental watering of an additional 35,000 hectares of floodplains in the River Murray System, to do the following:
    - (i) improve the health of forests and the habitats of fish and birds;
    - (ii) improve connections between the floodplains and rivers in the River Murray System;
    - (iii) replenish groundwater;
  - (g) increasing the flows of rivers and streams, and providing water to low and middle level floodplains and habitats that are adjacent to rivers and streams, in the River Murray System:
    - (i) to enhance environmental outcomes within those floodplains, habitats, rivers and streams; and
    - (ii) to improve connections between those floodplains and habitats, and those rivers and streams;
  - (h) in any other way that is consistent with:
    - (i) the Authority's modelling of the effect of increasing the volume of the Basin water resources that is available for environmental use by 3200 gegalitres; and
    - (ii) easing or removing constraints on the capacity to deliver environmental water to the environmental assets of the Murray-Darling Basin.
- (3) The object of this Part is to be achieved by:
- (a) easing or removing constraints on the capacity to deliver environmental water to the environmental assets of the Murray-Darling Basin; and
  - (b) increasing the volume of the Basin water resources that is available for environmental use by 450 gegalitres.

### **86AB Water for the Environment Special Account**

- (1) The Water for the Environment Special Account is established by this section.
- (2) The Account is a Special Account for the purposes of the *Financial Management and Accountability Act 1997*.

### **86AC Credits to the Water for the Environment Special Account**

- (1) There must be credited to the Water for the Environment Special Account the following amounts:
  - (a) all amounts appropriated by the Parliament for the purposes of that Account;
  - (b) amounts paid by a Basin State, under an agreement between the Commonwealth and the State, for crediting to that Account;
  - (c) amounts received for crediting to that Account by the Commonwealth under any other agreement;
  - (d) amounts equal to money received by the Commonwealth in relation to property paid for with amounts debited from that Account;
  - (e) amounts equal to amounts of any gifts given or bequests made for the purposes of that Account.

Note: An Appropriation Act provides for amounts to be credited to a Special Account if any of the purposes of the Account is a purpose that is covered by an item in the Appropriation Act.

- (2) Amounts equal to money received by the Commonwealth from the disposal of or other dealings with water access rights paid for with amounts debited from the Water for the Environment Special Account are not to be credited to that Account.

Note: Such amounts are instead credited to the Environmental Water Holdings Special Account (see paragraphs 105(2)(a) and 112(1)(b)).

### **86AD Purposes of the Water for the Environment Special Account**

- (1) This section sets out the purposes of the Water for the Environment Special Account.
  - (2) Amounts standing to the credit of the Water for the Environment Special Account may be debited for any of the following purposes:
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- (a) making payments in relation to projects whose aim is to further the object of this Part by doing one or more of the following:
  - (i) improving the water efficiency of the infrastructure that uses Basin water resources for irrigation;
  - (ii) improving the water efficiency of any other infrastructure that delivers, stores or drains Basin water resources for the primary purpose of providing water for irrigation;
  - (iii) improving or modifying any infrastructure (including bridges and roads) that constrains the delivery of environmental water to the environmental assets of the Murray-Darling Basin in order to ease or remove those constraints;
  - (iv) better utilising existing dams and storages to deliver environmental water to the environmental assets of the Murray-Darling Basin;
  - (v) entering agreements to acquire an interest in, or in relation to, land (including easements) to facilitate environmental watering of the environmental assets of the Murray-Darling Basin;
  - (vi) improving the rules, policies, practices and procedures in relation to the use and management of the Basin water resources;
- (b) purchasing water access rights in relation to Basin water resources for the purpose of furthering the object of this Part;
- (c) making any other payments:
  - (i) in relation to projects whose aim is to further the object of this Part; or
  - (ii) to address any detrimental social or economic impact on the wellbeing of any community in the Murray-Darling Basin that is associated with a project or purchase referred to in paragraph (a) or (b) or subparagraph (c)(i) so as to offset any such impact;
- (d) meeting the expenses of administering the Account.

Note 1: As a result of subsection (4) of this section, water access rights may be purchased only if the purchase is related to an adjustment of a long-term average sustainable diversion limit under section 23A. That section requires the Basin Plan to prescribe criteria in relation to such adjustments. The effect of the criteria prescribed by the Basin Plan is that water access rights may be purchased only in conjunction with

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## Schedule 1 Water for the Environment Special Account

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improving irrigation water use efficiency on farms or an alternative arrangement proposed by a Basin State.

Note 2: Under this Part, the Commonwealth will not conduct open tender rounds that are available to all water access entitlement holders in a water resource plan area to purchase water access rights.

- (3) For the purposes of this section, the expenses of administering the Water for the Environment Special Account do not include the cost of salaries of the Department.
- (4) An amount may be debited from the Water for the Environment Special Account for the purpose of making a payment in relation to a project or purchase referred to in paragraph (2)(a) or (b) or subparagraph (2)(c)(i) only if the project or purchase is related to an adjustment of a long-term average sustainable diversion limit for the water resources of a particular water resource plan area (or a particular part of those water resources) under section 23A (whether or not the adjustment has been proposed, and whether or not the adjustment has been adopted as an amendment) because the project or purchase achieves the object of this Part in accordance with subsection 86AA(3).

Note: A proposed adjustment may be adopted by the Minister as an amendment of the Basin Plan under subsection 23B(6).

### **86AE Commonwealth environmental water holdings**

- (1) To avoid doubt, water access rights acquired by the Commonwealth with amounts debited from the Water for the Environment Special Account form part of the Commonwealth environmental water holdings (see section 108).

Note: The Commonwealth Environmental Water Holder must (subject to subsection (2) of this section) dispose or otherwise deal with Commonwealth environmental water holdings in accordance with sections 105 and 106.

- (2) Paragraphs 105(3)(b) and (4)(b) and 106(2)(b) and (c), and subsection 105(5), do not apply in relation to any water access right that forms part of the Commonwealth environmental water holdings if the water access right was acquired by the Commonwealth with amounts debited from the Water for the Environment Special Account.

**86AF Arrangements to make payments**

- (1) The Minister may, on behalf of the Commonwealth, enter into arrangements and make payments for the purposes of subsection 86AD(2).
- (2) If a Basin State is granted financial assistance with an amount debited from the Water for the Environment Special Account, the terms and conditions on which that financial assistance is granted are to be set out in a written agreement between the Commonwealth and the Basin State.

**86AG Amounts to be credited to the Water for the Environment Special Account**

At the beginning of 1 July in each financial year specified in the following table, the amount specified in the table for that year is credited by force of this section to the Water for the Environment Special Account.

<b>Yearly payments</b>		
<b>Item</b>	<b>Financial year</b>	<b>Amount for financial year</b>
1	2014-2015	\$15,000,000.00
2	2015-2016	\$40,000,000.00
3	2016-2017	\$110,000,000.00
4	2017-2018	\$430,000,000.00
5	2018-2019	\$320,000,000.00
6	2019-2020	\$350,000,000.00
7	2020-2021	\$315,000,000.00
8	2021-2022	\$105,000,000.00
9	2022-2023	\$60,000,000.00
10	2023-2024	\$30,000,000.00

## 86AI Annual report

### *Annual report to be given to Minister*

- (1) As soon as practicable after 30 June in each financial year (the **report year**), the Secretary of the Department must prepare and give to the Minister, for presentation to the Parliament, a report on the Water for the Environment Special Account during that year.

### *Contents of annual report*

- (2) The Secretary of the Department must include in each annual report particulars of the following:
  - (a) the objectives and priorities for amounts debited during the report year from the Water for the Environment Special Account;
  - (b) achievements against those objectives and priorities, including the following:
    - (i) the increase during the report year in the volume of the Commonwealth environmental water holdings as a result of amounts debited from the Water for the Environment Special Account (whether the amounts were debited in that or any other year);
    - (ii) a description of the kinds of water access rights acquired by the Commonwealth during the report year as a result of amounts debited from the Water for the Environment Special Account (whether the amounts were debited in that or any other year);
    - (iii) the water resource plan areas in which water access rights referred to in subparagraph (ii) have been acquired;
  - (c) for each project in relation to which an amount was debited from the Water for the Environment Special Account during the report year for the purposes of paragraph 86AD(2)(a) or subparagraph 86AD(2)(c)(i):
    - (i) a description of the project; and
    - (ii) the aim of the project; and
    - (iii) the water resource plan area in which the project is to take place or is taking place;
  - (d) if an amount was debited during a previous financial year for the purposes of paragraph 86AD(2)(a) or subparagraph

- 86AD(2)(c)(i) in relation to a project—any significant developments during the report year in relation to the project;
- (e) in any case—any amount debited from the Water for the Environment Special Account during the report year, and the purpose for which the amount was debited.

*Annual report to be tabled in Parliament*

- (3) The Minister must cause a copy of each annual report to be tabled in each House of the Parliament within 15 sitting days of that House after the day the Minister receives the report.

*Annual report to be given to Basin States*

- (4) The Minister must cause a copy of each annual report to be given to the relevant State Minister for each of the Basin States on or before the day the report is first tabled in a House of the Parliament.

**86AJ Reviews of this Part**

- (1) The Minister must cause 2 independent reviews to be conducted into whether the amount standing to the credit of, and to be credited to, the Water for the Environment Special Account is sufficient to increase, by 30 June 2024, the volume of the Basin water resources that is available for environmental use by 450 gigalitres, and to ease or remove constraints identified by the Authority on the capacity to deliver environmental water to the environmental assets of the Murray-Darling Basin.
- (2) A review must be conducted by a panel of at least 3 persons nominated by the Minister, after consulting each Basin State.
- (3) In conducting a review under subsection (1), a panel must also consider the following:
- (a) the progress that has been, and is anticipated to be, made towards increasing the volume of the Basin water resources that is available for environmental use;
  - (b) whether the design of projects in relation to which payments have been made under section 86AD is likely to be effective in increasing the volume of the Basin water resources that is available for environmental use by 450 gigalitres;

- (c) any other matter specified in writing by the Minister that is relevant to achieving the object of this Part.
- (4) A panel must give the Minister a written report of a review.
- (5) The report of the first review must be provided to the Minister by 30 September 2019.
- (6) The report of the second review must be provided to the Minister by 30 September 2021.
- (7) The Minister must cause a copy of a report of a review to be tabled in each House of the Parliament within 15 sitting days of that House after the day the report is given to the Minister.
- (8) The Minister must table the Government's response to the report by the following time:
  - (a) for the first review—the time the Treasurer presents the budget to the Parliament for the 2020-2021 financial year;
  - (b) for the second review—the time the Treasurer presents the budget to the Parliament for the 2022-2023 financial year.

**3 At the end of subsection 105(3)**

Add:

Note: This subsection and subsection (4) are modified in relation to water access rights acquired by the Commonwealth with amounts debited from the Water for the Environment Special Account (see subsection 86AE(2)).

**4 At the end of subsection 106(2)**

Add:

Note: This subsection is modified in relation to water access rights acquired by the Commonwealth with amounts debited from the Water for the Environment Special Account (see subsection 86AE(2)).

**5 At the end of subsection 108(1)**

Add:

Note: Water access rights acquired by the Commonwealth with amounts debited from the Water for the Environment Special Account form part of the Commonwealth environmental water holdings (see subsection 86AE(1)).

**6 After paragraph 251(2)(e)**

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Insert:

- (ea) the power to enter into an arrangement under subsection 86AF(1) that contains, or is to contain, terms and conditions referred to in subsection 86AF(2); or
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*[Minister's second reading speech made in—  
House of Representatives on 31 October 2012  
Senate on 29 November 2012]*

(203/12)

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