



Water Amendment Act 2018

No. 53, 2018

An Act to amend the *Water Act 2007*, and for related purposes

Note: An electronic version of this Act is available on the Federal Register of Legislation (<https://www.legislation.gov.au/>)

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No. 53, 2018

An Act to amend the *Water Act 2007*, and for related purposes

[Assented to 27 June 2018]

The Parliament of Australia enacts:

1 Short title

This Act is the *Water Amendment Act 2018*.

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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Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	The earlier of: (a) the day after this Act receives the Royal Assent; and (b) 1 July 2018.	28 June 2018 (paragraph (a) applies)

Note: This table relates only to the provisions of this Act as originally enacted.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 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

Water Act 2007

1 Subsection 33(2)

After “section 48”, insert “or 49AA”.

2 At the end of Subdivision F of Division 1 of Part 2

Add:

49AA Amendment of the Basin Plan that is the same in effect as an amendment that has been disallowed

- (1) The Minister may direct the Authority, in writing, to prepare an amendment of the Basin Plan if:
 - (a) the amendment will be the same in effect as an earlier amendment of the Basin Plan (the *earlier amendment*) that:
 - (i) has been disallowed (or is taken to have been disallowed) under subsection 42(1) or (2) of the *Legislation Act 2003*; and
 - (ii) was prepared under this Subdivision (other than this section); and
 - (b) the direction is given within the period of 12 months beginning on the day that the earlier amendment is disallowed (or is taken to have been disallowed); and
 - (c) in the case that an earlier direction has been given under this subsection in relation to the earlier amendment—the amendment prepared in response to that earlier direction was not adopted by the Minister.
- (2) The Authority must comply with a direction under subsection (1) by preparing the amendment, and giving it to the Minister for adoption, as soon as practicable.
- (3) As soon as practicable after receiving the amendment, the Minister must either:
 - (a) adopt, in writing, the amendment; or
 - (b) give the Authority notice, in writing, that the Minister has decided not to adopt the amendment.

- (4) Sections 46 to 48 do not apply to an amendment of the Basin Plan that is to be prepared, or is prepared or adopted, in accordance with this section.
- (5) A direction under subsection (1) is a legislative instrument, but neither section 42 (disallowance) nor Part 4 of Chapter 3 (sunsetting) of the *Legislation Act 2003* applies to the direction.
- (6) For the purposes of (and without limiting) this section, including in the amendment one or more of the following changes does not prevent the amendment from being the same in effect as the earlier amendment:
 - (a) a change that is required because another amendment of the Basin Plan has commenced after the commencement of the earlier amendment;
 - (b) a change that is required because a requirement under the Basin Plan has already occurred, or been met, after the commencement of the earlier amendment;
 - (c) a change that causes the amendment to commence later than the earlier amendment.

Note: There are other kinds of changes that also do not prevent the amendment from being the same in effect as the earlier amendment. For example, minor or non-substantive amendments of the kind specified for the purposes of paragraph 49(1)(a).

3 Subsection 175(1) (note)

Repeal the note, substitute:

Note: Other provisions enable the Minister to give directions about particular matters (for example, see subparagraphs 44(3)(b)(ii) and 48(3)(b)(ii) and subsection 49AA(1)). Those other powers to give directions may be subject to limitations.

4 Paragraph 251(2)(b)

After “section 48”, insert “or 49AA”.

5 After paragraph 251(2)(b)

Insert:

- (ba) the power to give a direction under subsection 49AA(1); or

6 After section 255B

Insert:

255C Transitional provisions relating to amendments

Schedule 10 has effect.

7 At the end of the Act

Add:

Schedule 10—Transitional provisions relating to amendments

Note: See section 255C.

Part 1—Transitional provisions relating to the Water Amendment Act 2018**1 Application of amendments**

The amendments made by Schedule 1 to the *Water Amendment Act 2018* apply whether the earlier amendment of the Basin Plan was disallowed (or is taken to have been disallowed) under subsection 42(1) or (2) of the *Legislation Act 2003* before, at or after the commencement of that Schedule.

Note: For the earlier amendment of the Basin Plan, see paragraph 49AA(1)(a) of this Act.

2 Transitional

- (1) This section applies if the Minister gives a direction under section 49AA for the Authority to prepare an amendment of the Basin Plan that is the same in effect as the *Basin Plan Amendment Instrument 2017 (No. 1)*.
- (2) For the purposes of (and without limiting) that section, including in the amendment one or more of the following changes does not prevent the amendment from being the same in effect as the *Basin Plan Amendment Instrument 2017 (No. 1)*:
 - (a) an additional requirement in the definition of ***re-allocation adjustment request*** in section 6.05 (as substituted by the amendment) of the Basin Plan that a request made before that

substitution should be expressed to be made in anticipation of that substitution;

- (b) an additional requirement in subsection 6.05(13) (as substituted by the amendment) of the Basin Plan that requires the Authority to publish on its website variations to the SDL resource unit shared reduction amounts for SDL resource units in the relevant zones;
 - (c) a change to section 7.14A (as inserted by the amendment) to reflect that the initial adjustments proposed in 2017 (as required by section 7.10 of the Basin Plan) have already occurred.
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*[Minister's second reading speech made in—
House of Representatives on 10 May 2018
Senate on 18 June 2018]*

(94/18)
