

**NEW SOUTH WALES—QUEENSLAND BORDER RIVERS
(AMENDMENT) ACT 1993 No. 36**

NEW SOUTH WALES



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**NEW SOUTH WALES—QUEENSLAND BORDER RIVERS
(AMENDMENT) ACT 1993 No. 36**

NEW SOUTH WALES



Act No. 36, 1993

An Act to amend the New South Wales—Queensland Border Rivers Act 1947 in order to ratify an agreement about underground water which has been entered into between the Premiers of New South Wales and Queensland and amends an existing agreement affecting certain surface water; and for other purposes. [Assented to 8 June 1993]

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the New South Wales—Queensland Border Rivers (Amendment) Act 1993.

Commencement

2. This Act commences on a day to be appointed by proclamation.

Amendment of New South Wales—Queensland Border Rivers Act 1947 No. 10

3. The New South Wales—Queensland Border Rivers Act 1947 is amended as set out in Schedule 1.

Repeal of New South Wales—Queensland Border Rivers (Amendment) Act 1968 No. 65

4. The New South Wales—Queensland Border Rivers (Amendment) Act 1968 is repealed.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Long title:

Omit the long title, insert instead:

An Act to ratify certain agreements made between the Premiers of New South Wales and Queensland with respect to the Severn, Dumaresq, Macintyre and Barwon Rivers and certain other waters (including underground water); and for other purposes.

(2) Preamble:

Omit the preamble.

SCHEDULE 1—AMENDMENTS—*continued*(3) Section 4 (**Definitions**):

- (a) Insert in section 4, in alphabetical order, the following definitions:

“Agreement” means the Agreement of which a copy is set out in the Schedule to this Act, as amended by the Amending Agreement and the Second Amending Agreement.

“Amending Agreement” means the agreement of which a copy is set out in the Supplementary Schedule to this Act.

“Commission” means The Dumaresq—Barwon Border Rivers Commission constituted under the Agreement.

“Exercise” of a function includes, if the function is a duty, the performance of the duty.

“Function” includes a power, authority and duty.

“Second Amending Agreement” means the agreement of which a copy is set out in the Second Supplementary Schedule to this Act.

- (b) From the definition of “Controlling Authority” in section 4, omit “Water Resources Commission”, insert instead “Ministerial Corporation”.
- (c) From section 4, omit the definitions of “The Agreement”, “The Amending Agreement”, “The Commission”, “The Schedule” and “The Supplementary Schedule”

(4) Section 5:

Omit the section, insert instead:

Ratification of agreements

5. (1) The Agreement, the Amending Agreement and the Second Amending Agreement are ratified and approved.

(2) Without affecting the generality of this section, the exercise by the State, the Commission or the Controlling Authority of a function under the Agreement, the Amending Agreement and the Second Amending Agreement is sanctioned, authorised and confirmed.

SCHEDULE 1—AMENDMENTS— *continued*

(5) Second Supplementary Schedule:

After the Supplementary Schedule, insert:

SECOND SUPPLEMENTARY SCHEDULE

(Sec. 4)

AN AGREEMENT made on 15 March 1993 between **THE STATE OF NEW SOUTH WALES** and **THE STATE OF QUEENSLAND**.

WHEREAS—

- (a) an agreement was made between the States on 27 November 1946 (the **“original agreement”**) that was approved and ratified under—
 - (i) the New South Wales—Queensland Border Rivers Act, 1947 of the State of New South Wales; and
 - (ii) the *New South Wales—Queensland Border Rivers Act 1946* of the State of Queensland; and
- (b) an agreement amending the original agreement was made between the States on 4 November 1968 (the **“amending agreement”**) that was approved and ratified under—
 - (i) the New South Wales—Queensland Border Rivers (Amendment) Act, 1968 of the State of New South Wales; and
 - (ii) the *New South Wales—Queensland Border Rivers Act Amendment Act 1968* of the State of Queensland; and
- (c) the States desire to make further amendments of the original agreement as amended by the amending agreement.

NOW IT IS AGREED as follows—

PART 1—PRINCIPAL AGREEMENT**Definition**

1. In this agreement—

“principal agreement” means the original agreement as amended by the amending agreement.

SCHEDULE 1—AMENDMENTS—*continued***Binding of States**

2. The principal agreement continues to bind the States subject to the amendments of the principal agreement made by this agreement.

PART 2—RATIFICATION OF AGREEMENT**Ratification**

3. (1) This agreement—

- (a) is subject to ratification by the Parliaments of the States; and
- (b) comes into effect when so ratified.

(2) Each State is to take all practicable steps to have this agreement ratified.

PART 3—AMENDMENT OF PRINCIPAL AGREEMENT**Amended agreement**

4. The principal agreement is amended as set out in this agreement.

Amendment of preamble

5. Preamble (after ‘streams’ (last occurring))—

insert ‘and that certain investigations be made in respect of groundwater resources associated with the Carrier Rivers with a view to determining the proportions or quantities of groundwater that should be available to the States from those resources’.

Insertion of new cl. 14A

6. After clause 14—

insert—

‘14A. Monitoring of groundwater. (1) The Commission must arrange for the construction, maintenance, operation and control of an effective system of monitoring groundwater.

SCHEDULE 1—AMENDMENTS—*continued*

- ‘(2) Each of the States must, through its Controlling Authority—
- (a) record the matters it is directed by the Commission to record; and
 - (b) supply to the Commission the particulars the Commission from time to time requires;

relating to monitoring carried out under subclause (1).

‘(3) Any costs or expenses incurred by a party under subclause (2) are to be borne by the Commission.’.

Amendment of cl. 15 (Certain powers and duties of Commission)

7. (1) After clause 15 (a)—

insert—

- ‘(b) may from time to time so far as may be necessary for giving effect to this agreement determine any part of the groundwater area to be a zone;’.

(2) Clause 15 (b)—

redesignate as clause 15 (c).

Amendment of cl. 16 (Functions of Commission)

8. (1) Clause 16 (2)—

omit ‘laboratory and engineering investigations’,

insert ‘laboratory, engineering and hydrogeological investigations’.

(2) Clause 16 (2) (e)—

omit ‘streams.’, *insert* ‘streams;’.

(3) After clause 16 (2) (e)—

insert—

- ‘(f) the carrying out of works on the Carrier Rivers for river improvement purposes;

SCHEDULE 1—AMENDMENTS—*continued*

(g) in relation to groundwater—

(i) its occurrence, quantity and quality; and

(ii) its potential for use, contamination or pollution; and

(iii) its interaction with surface water resources.’.

(4) Clause 16 (3) (f)—

omit ‘streams.’, *insert* ‘streams;’.

(5) After clause 16 (3) (f)—

insert—

‘(g) the proportions or quantities of groundwater in any zone which should be available to each of the parties;

(h) the interaction of surface water and groundwater in any zone.’.

Amendment of cl. 28 (Estimates of Expenditure)

9. Clause 28 (2)—

omit ‘in the month of March in each year commencing with the month of March immediately preceding the expiration of the first period’,

insert ‘, at such times in each year as may be agreed upon from time to time between the Commission and the parties,’.

Replacement of heading to Part V (DISTRIBUTION AND USE OF WATERS)

10. Heading to Part V—

omit, insert—

‘PART V—DISTRIBUTION AND USE OF SURFACE WATERS’.

Amendment of cl. 33 (Apportionment of water)

11. Clause 33 (1) (b)—

omit ‘each year commencing on the first day of July’.

insert ‘each water year’.

SCHEDULE 1—AMENDMENTS—*continued***Amendment of cl. 37 (Determination of anticipated available quantity)**

12. Clause 37 (1) (wherever occurring)—
omit ‘each year commencing on the first day of July’,
insert ‘each water year’.

Insertion of new Part VA—

13. After clause 42—
insert—

‘PART VA—GROUNDWATER

‘42A. Determinations relating to groundwater. (1) The Controlling Authority of a State must take the steps it considers necessary to give effect to any determination made by the Government of the State in respect of any matter relating to the proportions or quantities of groundwater available to the State.

‘(2) A determination of a Government under subclause (1) must be made following receipt by it of recommendations of the Commission concerning a matter mentioned in clause 16 (3) (g).

‘(3) Each of the States must confer on its Controlling Authority the powers necessary to enable it to fulfil its obligations under this clause.

‘42B. Use of groundwater. Subject to this agreement, each of the States may use the groundwater to which it is entitled under this agreement for such purposes as it may determine.’.

Insertion of new cl. 45A

14. After clause 45 (in Part VI)—
insert—

‘45A. Statements relating to groundwater. (1) The Controlling Authority of each State must—

- (a) at least once in each water year; and

SCHEDULE 1—AMENDMENTS—*continued*

- (b) otherwise from time to time as and when required by the Commission;
- give to the Commission a written statement under this clause.
- ‘(2) The statement must—
- (a) contain such particulars relating to groundwater as are required by the Commission; and
- (b) relate to such periods as are specified, by the Commission.
- ‘(3) The particulars relating to groundwater that may be required by the Commission include particulars of the quantities of groundwater taken from any zone.’.

Amendment of cl. 51

15. (1) Clause 51 (after the definition “**Governor**”)—
insert—

“**Groundwater**” means water occurring—

- (a) in a geological structure or formation; or
- (b) in an artificial landfill;

under the surface of the ground in the groundwater area, excluding water from a formation in the Great Artesian Basin.

“**Groundwater Area**” means the area comprising—

- (a) part of the State of New South Wales; and
- (b) part of the State of Queensland;

overlying alluvium containing groundwater associated with the Carrier Rivers.’.

(2) Clause 51 (after the definitions “**River**” and “**Tributary**”)—
insert—

‘ “**Water Year**” means—

- (a) the period—

(i) beginning on the first 1 July occurring after this definition comes into effect; and

(ii) ending on 30 September of the year after the year in which the period begins; or

SCHEDULE 1—AMENDMENTS— *continued*

- (b) the period of 12 months beginning at the end of the period to which paragraph (a) applies and each successive period of 12 months; or
- (c) any other period of 12 months fixed, for the purposes of this paragraph, by the Controlling Authorities of the States and approved by the Commission.

“**Zone**” means any part of the groundwater area determined by the Commission to be a zone.’.

IN WITNESS OF WHICH the Premiers of the States of New South Wales and Queensland have to this Agreement set their hands and seals on the date first written above

SIGNED SEALED AND DELIVERED by
The Honourable John Joseph Fahey the
Premier of the State of New South Wales for
and on behalf of that State in the presence
of—

John Fahey

BRIAN CUMMINS

SIGNED SEALED AND DELIVERED by
The Honourable Wayne Keith Goss the
Premier of the State of Queensland for and on
behalf of that State in the presence of—
EDMUND CASEY

Wayne Goss

[Minister's second reading speech made in—
Legislative Assembly on 22 April 1993
Legislative Council on 18 May 1993]