



Water Amendment Regulations 2011 (No. 1)¹

Select Legislative Instrument 2011 No. 117

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Water Act 2007*.

Dated 30 June 2011

QUENTIN BRYCE
Governor-General

By Her Excellency's Command

TONY BURKE
Minister for Sustainability, Environment, Water, Population and
Communities

1 Name of Regulations

These Regulations are the *Water Amendment Regulations 2011 (No. 1)*.

2 Commencement

These Regulations commence on registration.

3 Amendment of *Water Regulations 2008*

Schedule 1 amends the *Water Regulations 2008*.

Schedule 1 Amendments

(regulation 3)

[1] Schedule 1A

omit

Note Items 1 to 159 are reserved for future use.

insert

[1] Clause 2, after the definition of “Contracting Government”

insert

“**conveyance reserve**”, for a year, means water set aside by the Authority to supply conveyance water for the following year, determined in accordance with clause 102D.

[2] Clause 2, after the definition of “critical human water needs”

insert

“**current conveyance water**” means water to be used as conveyance water in the current year.

“*deferred water*” has the meaning given by Schedule G.

[3] Clause 2, after the definition of “minimum operating level”

insert

“**minimum reserve**” has the meaning given by clause 103.

[4] Clause 2, after the definition of “prescribed rate”

insert

“**private carry-over**” means a volume of allocations made available in a year for use under an entitlement, and not used in the year, but that may be made available to the holder of the entitlement for use in a subsequent year.

Note Items 5 to 79 are reserved for future use.

[80] After clause 88

insert

88A Use of allowance for dilution and losses

- (1) This clause applies if the Authority, under subparagraph 102 (c) (i), determines that the water available for distribution to South Australia is less than or equal to the sum of:
 - (a) the volume mentioned in paragraph 88 (b); and
 - (b) the volume determined under subclause 102A (2) that is attributable to South Australia.
- (2) Despite paragraph 88 (b), South Australia may use, for purposes other than meeting dilution and losses:
 - (a) up to 2% of the volume South Australia is entitled to receive in a year under paragraph 88 (b); or
 - (b) another percentage determined by the Ministerial Council.

[81] Clause 90

substitute

90 Variation of South Australia's Entitlement

The Authority may, from time to time at the request of the Committee member for South Australia, vary for a specified sequence of months any of the monthly quantities which the State is otherwise entitled to receive:

- (a) under clause 88, without increasing the total of those quantities for that sequence; or
- (b) in order to store or deliver deferred water to South Australia.

[82] After subclause 91 (2)

insert

- (2A) In calculating monthly quantities under paragraph 88 (a), any part of South Australia's entitlement stored under subclause (1) or (2) is taken to have been received by South Australia at the time it is stored.

[83] Clause 97

substitute

97 Limitations on use by New South Wales and Victoria

Subject to subclause 102C (4), unless the Ministerial Council determines otherwise, New South Wales or Victoria must not use:

- (a) deferred water stored under Schedule G, except as provided in that Schedule; or
- (b) water from the upper River Murray to an extent which may result in the total volume of water held in upper River Murray storages and reserved for the use of the relevant State at the end of the following May being less than half the sum of the minimum reserve and the conveyance reserve.

[84] Paragraph 102 (c)

substitute

- (ba) determine the allowance to be made for water deferred under clause 91;
- (c) having regard to its determinations under paragraphs (a), (b) and (ba), determine the water available:
 - (i) for distribution to New South Wales, Victoria and South Australia (including water to meet critical human water needs) before the end of the following May; and
 - (ii) for holding in reserve at the end of the following May.

[85] After clause 102

insert

102A Critical Human Water Needs

- (1) Each year the Authority must, before the end of the following May, determine an initial requirement to meet critical human water needs.
- (2) For subclause (1), the initial requirement for distribution among New South Wales, Victoria and South Australia is:
 - (a) before the Basin Plan takes effect — 351 000 megalitres; and
 - (b) after the Basin Plan takes effect — the sum of the amounts determined for New South Wales, Victoria and South Australia in accordance with the Basin Plan.

102B Setting aside water for Critical Human Water Needs

- (1) By 31 May in each year, New South Wales, Victoria and South Australia must each tell the Authority what volume of water the State has set aside to meet critical human water needs in the following year, and the present location of that water.

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- (2) Within 21 days after receiving information from a State under subclause (1), or a longer time agreed between the Authority and the State, the Authority must satisfy itself that the information given by the State is correct.
 - (3) If the Authority is not satisfied that the information given by a State is correct, it must tell the State of that fact and of any correction proposed by the Authority.
 - (4) If the State and the Authority fail to agree whether any, and if so what, correction is required within 14 days after the Authority has told the State under subclause (3), the Authority or the State may refer the matter to the Committee, which must determine the matter.

102C Need for advances

- (1) From time to time during each year the Authority must, after allowing for the volume of current conveyance water, determine whether each State has sufficient water available for distribution to it to allocate at least the volume set aside by it under clause 102B for critical human water needs in the year.
- (2) If the Authority determines that a State does not have sufficient water available for subclause (1), it must tell the Committee:
 - (a) its estimate of the shortfall; and
 - (b) which State or States are appropriate to advance water towards meeting the shortfall; and
 - (c) the volume of the advance required from the State or States for the purpose.
- (3) The Committee may determine whether an advance is required from one or more of the States to meet any shortfall mentioned in subclause (2), and the volume of the advance.
- (4) If the Committee determines that an advance to a State is required under subclause (3), the Authority must, without increasing the total volume of water available for distribution:
 - (a) increase the water available for distribution to that State by the volume of the advance determined by the Committee; and

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- (b) decrease the water available for distribution to the other States by the same volume.

102D Conveyance Reserve

- (1) At intervals no greater than once every 2 months, the Authority must determine the conveyance reserve to be held at the end of the following May, in accordance with this clause.
- (2) The conveyance reserve is the lesser of:
- (a) the following:
- (i) before the Basin Plan takes effect — 225 000 megalitres; and
 - (ii) after the Basin Plan takes effect — the volume determined in accordance with the Basin Plan; and
- (b) the volume for distribution determined under paragraph 102 (c)
- less**
- the volume of critical human water needs determined under subclause 102A (1)
- plus** the following:
- (i) the Authority's estimate of the minimum flow of water into the River Murray from the sources referred to in paragraph 94 (1) (d);
 - (ii) the volume calculated under clause 8 of Schedule F;
 - (iii) any water stored by South Australia under subclause 91 (2).
- (3) If the result of a calculation made under subclause (2) is less than zero, the conveyance reserve must be taken to be zero.
- (4) The Authority must, from time to time, determine the contribution to be made by each of New South Wales, Victoria and South Australia to the conveyance reserve.

[86] Subclause 103 (2)

substitute

- (2) Unless the Ministerial Council determines otherwise, the minimum reserve must be the lesser of:
- (a) one third of the water available determined under paragraph 102 (c)
- less**
- the sum of the monthly entitlements of South Australia under paragraph 88(a) up to the end of the following May
- less**
- one third of the conveyance reserve determined under clause 102D
- plus**
- the sum of any imbalance of use during a period of special accounting calculated under clause 126; and
- (b) 835 000 megalitres.

[87] Subclause 110 (1)

substitute

- (1) Subject to subclause (1A), any water that is lost by evaporation or other means from the upper River Murray is taken to have been used by New South Wales or Victoria.
- (1A) Any loss by evaporation, or by other means, of deferred water held in a major storage is taken to have been used by South Australia.

[88] Subclause 110 (2)

omit

Unless otherwise determined

insert

For subclause (1), unless otherwise determined

[89] Clause 111

substitute

111 New South Wales' and Victoria's Supply to South Australia

- (1) For the purposes of this Subdivision:
 - (a) any water supplied in any month to South Australia which it is entitled to receive in that month under clause 88 or 90 is taken to be provided by New South Wales and Victoria in equal proportions; and
 - (b) any water stored by South Australia under clause 91 of the Agreement is taken to be provided by New South Wales and Victoria in equal proportions, at the time when that water is stored in accordance with Schedule G.
- (2) The Authority must make appropriate adjustments to the allocation of water to New South Wales and Victoria in the upper River Murray so as to give effect to those States' obligations under clause 96.

[90] After subclause 123 (2)

insert

- (3) In calculating a reserve referred to in subclause (1), the Authority must disregard any deferred water and any conveyance reserve held in a major storage.

[91] Subclause 128 (1)

omit

In a period

insert

Subject to subclause 102C (4), in a period

[92] Paragraph 128 (1) (b)

substitute

- (b) one-third of the available water determined under paragraph 102 (c)
less
one-third of the conveyance reserve determined under subclause 102D(1)
plus
any imbalance in use calculated under clause 126.

[93] Clause 130

substitute

130 Accounting for South Australia's Storage Rights

- (1) South Australia's storage rights are set out in Schedule G.
- (2) The Ministerial Council may, at any time, ask the Authority to prepare a draft amendment to Schedule G and the Authority must comply with the request.
- (3) The Authority may also prepare a draft amendment to Schedule G in accordance with that Schedule or clause 142.
- (4) The Authority must give any draft amendment to the Committee.
- (5) After considering the draft amendment, the Committee must submit to the Ministerial Council:
 - (a) the draft amendment; and
 - (b) the Committee's advice about the draft amendment.
- (6) After receiving the draft amendment and the advice of the Committee, the Ministerial Council may:
 - (a) approve the draft amendment with or without alteration; or
 - (b) refer the draft amendment back to the Authority for further consideration.

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- (7) When an amendment is approved by the Ministerial Council under paragraph (6) (a), the amendment:
- (a) becomes part of the Agreement; and
 - (b) takes effect in accordance with subclause 5 (2).
- (8) Schedule G, whether or not amended under this clause, must:
- (a) set out rules for giving effect to and accounting for South Australia's storage rights under clause 91; and
 - (b) define what constitutes an effect on water availability and storage access for clause 91.
- (9) Without limiting subclause (8), Schedule G, whether or not amended under this clause, must contain rules that are necessary to ensure that:
- (a) South Australia can exercise its storage rights to meet critical human water needs under subclause 91 (1) in a way that does not affect the water availability for New South Wales or Victoria that would have existed under this Agreement had it not been for the exercise by South Australia of its rights under that clause; and
 - (b) South Australia can exercise its storage rights for private carry-over under subclause 91 (2) in a way that does not affect the water availability or storage access for New South Wales or Victoria that would have existed under this Agreement had it not been for the exercise by South Australia of its rights under that clause; and
 - (c) if possible, water stored under clause 91 that is spilled from a storage, is re-regulated for subsequent use by South Australia; and
 - (d) if the Authority determines at any time that an effect mentioned in paragraph (8) (b) has occurred, the Authority must immediately adjust the accounts maintained under subclause (11) to correct the effect.
- (10) A rule mentioned in subclause (9) may have the effect of adding to, derogating from or otherwise altering any provision of this Division.
- (11) The Authority must keep the separate accounts required to be kept by Schedule G.

- (12) The Authority:
- (a) may prepare draft rules:
 - (i) to implement the provisions of clause 22 of Schedule G relating to the attribution of incremental evaporative losses to South Australia; and
 - (ii) to account for transmission losses when flows are only partly contained within river channels; and
 - (iii) otherwise to implement the provisions of Schedule G; and
 - (b) may prepare draft amendments to any rules approved by the Ministerial Council under subclause (13); and
 - (c) must give any draft rules and draft amendments prepared under paragraph (a) or (b) to the Ministerial Council.
- (13) The Ministerial Council may:
- (a) approve any draft rules or amendments prepared under subclause (12), with or without amendments; or
 - (b) refer the draft rules or amendments back to the Authority for further consideration.

[94] Clause 135

substitute

135 Schedule for water sharing

- (1) During any period when Division 2 or Division 3 of this Part applies, State water entitlements will be determined, delivered and accounted for in accordance with Schedule H.
- (2) The Ministerial Council may, at any time, request the Authority to prepare a draft amendment to Schedule H and the Authority must comply with that request.
- (3) The Authority may also prepare a draft amendment to Schedule H in accordance with that Schedule or clause 142.
- (4) The Authority must give any draft amendment to the Committee.

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- (5) After considering the draft amendment, the Committee must submit to the Ministerial Council:
 - (a) the draft amendment; and
 - (b) the Committee's advice about the draft amendment.
 - (6) After receiving the draft amendment and the advice of the Committee, the Ministerial Council may:
 - (a) approve the draft amendment with or without alteration; or
 - (b) refer the draft amendment back to the Authority for further consideration.
 - (7) When an amendment is approved by the Ministerial Council under paragraph (6) (a), the amendment:
 - (a) becomes part of the Agreement; and
 - (b) takes effect in accordance with subclause 5 (2).
 - (8) Schedule H, whether or not amended under this clause, must set out the way in which State water entitlements will be determined, delivered and accounted for during a period in which either Division 2 or Division 3 of this Part applies.
 - (9) Without limiting other provisions of this clause, Schedule H, whether or not amended under this clause, may provide that:
 - (a) any provision of the following does not apply, or applies to a specified extent or in specified circumstances:
 - (i) Division 1 of this Part;
 - (ii) Part XIV or Schedule F of this Agreement; or
 - (b) any provision mentioned in paragraph (a) may be determined by the Ministerial Council to apply, or to apply to a specified extent or in specified circumstances; or
 - (c) the Ministerial Council:
 - (i) must exercise a discretion provided in Division 1 of this Part in a specified way or at a specified time; or
 - (ii) may make a determination about any matter the subject of a provision of Division 1 of this Part or Part XIV or Schedule F of this Agreement that is additional to, substituted for or contrary to the provision.

- (10) Schedule H, whether or not amended under this clause, must be prepared on the basis that the Contracting Governments have agreed as follows:
 - (a) that critical human water needs are the highest priority water use for communities who are dependent on Basin water resources;
 - (b) in particular that, to give effect to this priority, conveyance water required to meet critical human water needs will receive first priority from the water available in the River Murray System;
 - (c) that each State Contracting Government will be responsible for meeting critical human water needs in its State, and will decide how water from its entitlement is used.
- (11) After the Basin Plan takes effect, any amendment to Schedule H must have regard to the provisions of the Basin Plan and, in particular, to provisions required by Part 2A of the Water Act.
- (12) The Ministerial Council must review Schedule H:
 - (a) from time to time; and
 - (b) at least once for each period in which Division 3 of this Part applies.
- (13) The Authority must keep the separate accounts required to be kept by Schedule H.
- (14) The Authority:
 - (a) must prepare, and give to the Ministerial Council, draft rules to ensure that, subject to the storage rights of South Australia mentioned in paragraphs 130 (9) (a) and (b), each State is able to carry over a volume of water equivalent to 150% of its annual critical human water needs requirement; and
 - (b) may prepare, and give to the Ministerial Council, draft rules:
 - (i) for the Authority to determine the worst-case planning inflow sequence for Schedule H; and

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- (ii) for the Committee to determine the volume of water that will be made available by any proposed remedial action under subclause 10 (8) of Schedule H; and
 - (iii) otherwise to implement the provisions of Schedule H; and
 - (c) may prepare, and give to the Ministerial Council, draft amendments to any rules approved by the Ministerial Council under subclause (15).
- (15) The Ministerial Council may:
- (a) approve any draft rules or amendments prepared under subclause (14), with or without amendments; or
 - (b) refer the draft rules or amendments back to the Authority for further consideration.

Note Items 95 to 159 are reserved for future use.

[160] Schedule B, Appendix 1, table
substitute

Valley	Basin Salinity Management Strategy — End-of-Valley Salinity Targets										AVRC Site Number	Map EoV Site ID
	Baseline Conditions (1 Jan 2000)		End-of-Valley Targets (as percentage of Baseflow)		End-of-Valley Targets (as absolute value)		Salt Load (t/yr)		Valley Reporting Site			
	Salinity (EC µS/cm)	Peak (80%/y)	Salinity (EC µS/cm)	Peak (80%/y)	Salinity (EC µS/cm)	Peak (80%/y)	Mean	Mean				
Murray-Darling Basin Agreement – Schedule B, Appendix 1	570	920	1,600,000	110%	87%	1,760,000	800*	627	Murray R @ Morgan (Salinity)	426554	96	
Murray-Darling Basin	570	920	1,600,000	110%	87%	1,760,000	800*	627	Murray R @ Lock 1 (Flow)	426552		
SOUTH AUSTRALIA												
SA Border	380	470	1,300,000	-	88%	-	412	-	Flow to SA	426200	92	
Lock 6 to Berr	450	600	1,500,000	-	91%	-	543	-	Murray R @ Lock 4 (Flow)	426514	94	
Below Morgan	600	820	1,600,000	-	94%	-	770	-	Berr Pumping Station (Salinity)	426537		
									Murray R @ Murray Bridge	426522	98	
NEW SOUTH WALES												
Murrumbidgee	150	230	1,600,000	108%	112%	1,690,000	258	162	Murrumbidgee R @s Balaclava Weir	4110130	58	
Lachlan	430	660	2,500,000	107%	105%	2,570,000	693	460	Lachlan R @ Forbes (Conons Weir)	412004	55	
Bogan	440	490	27,000	132%	93%	54,830	456	581	Bogan R @ Gungahlin	421023	76	
Macquarie	480	610	23,000	105%	122%	25,760	744	504	Macquarie R @ Cananda (Bell Bridge)	421012	77	
Castlereagh	350	390	9,000	105%	99%	8,910	368	368	Castlereagh R @ Campbellton Bridge	429030	76	
Narroi	440	650	110,000	108%	110%	127,600	715	475	Narroi R @ Goonera	419026	75	
Cowell	400	540	7,000	103%	101%	7,000	545	412	Melk R @ Bourke	418058	74	
NSW Border Rivers	250	330	50,000	100%	100%	50,000	330	250	Muscivore R @ Mangindil	416001	70	
Barramunda	330	440	440,000	118%	117%	576,400	453	389	Darling R @ Williams (Murr Channel)	425908	90	
NSW Upper Murray	54	59	150,000	-	-	-	-	-	Murray R @ Heywood	409016	10	
NSW Riverina Plains	310	390	1,100,000	-	-	-	-	-	Murray R @ Redcliff	412904	60	
NSW Murrumbidgee	380	470	1,300,000	-	-	-	-	-	Flow to SA	426200	92	
VICTORIA												
Wimmera	1,380	1,720	31,000	100%	100%	31,000	1,720	1,380	Wimmera R @ Hershman Weir	415200	34	
Avoca	2,060	5,280	37,000	102%	-	2,096	-	2,096	Avoca R @ Quambatook	408203	52	
Loddon	750	1,090	88,000	95%	-	711	-	711	Loddon R @ Lanecoorke	407203	24	
Campaspe	530	670	54,000	78%	-	412	-	412	Campaspe R @ Campaspe Weir	406218	22	
Goulburn	100	152	166,000	99%	-	99	-	99	Goulburn R @ Goulburn Weir	406259	18	
Broken	100	130	15,000	141%	-	141	-	141	Broken CL @ Casey's Weir	404217	16	
Ovens	72	100	54,000	100%	101%	72	100	72	Ovens R @ Peshieba-East	403241	14	
Kiewa	47	55	19,000	100%	100%	47	55	47	Kiewa R @ Badulla	402205	12	
Vic Upper Murray	54	59	150,000	-	-	-	-	-	Murray R @ Heywood	409016	10	
Vic Riverina Plains	270	380	630,000	-	-	-	-	-	Murray R @ Swan Hill	409204	30	
Vic Mallee Zone	380	470	1,300,000	-	-	-	-	-	Flow to SA	426200	92	
QUEENSLAND												
QLD Border Rivers	250	330	50,000	100%	100%	50,000	330	250	Burwood R @ Mangindil#	416001	70	
Moreton	140	150	8,700	100%	100%	8,700	150	140	Moreton R @ Fernon	417204A	71	
Condamine-Balonne	170	210	4,300	100%	100%	4,300	210	170	Balonne R @ Hebel-Balton Rd	422207A	83	
	150	280	6,500	100%	100%	6,500	280	150	Bonnam R @ Hebel	422209A	82	
	170	210	29,000	100%	100%	29,000	210	170	Condamine R @ Woorlella-Hebel Rd	422111A	84	
	160	210	10,000	100%	100%	10,000	210	160	Culgoon R @ Brenda #	422015 #	85	
	90	100	24,000	100%	100%	24,000	100	90	Naranyi R @ New Angledool #	422030 #	81	
	101	110	4,800	100%	100%	4,800	110	101	Paroo R @ Cairano	424201A	88	
	100	130	5,500	100%	100%	5,500	130	100	Warrego R @ Barrington No.2 #	425004 #	86	
	100	130	5,500	100%	100%	5,500	130	100	Cumbarra CL @ Turra #	423006 #	87	
AUSTRALIAN CAPITAL TERRITORY												
ACT	224	263	32,700	100%	100%	32,700	263	224	Murrumbidgee R @ Ball's Crossing	416777+	83	

Note Items 161 to 164 are reserved for future use.

[165] Schedule B, Appendix 2*omit*

Waikerie Salt Interception Scheme Groundwater pumping with disposal to Stockyard Plain evaporation basin	Southern side of the River Murray from Holder Bend (River distance 392 km) to the Toolunka Reach (River distance 371 km)	South Australia	Former Salinity and Drainage Work
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insert

Waikerie Salt Interception Scheme Groundwater pumping with disposal to Stockyard Plain evaporation basin	Southern side of the River Murray from Holder Bend (River distance 392 km) to Hogwash Bend (River distance 351 km)	South Australia	Part former Salinity and Drainage Work and part Basin Salinity Management Strategy Work
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Note Items 166 to 169 are reserved for future use.

[2] Schedule 1A, after item [201]*insert*

Note Items 202 to 209 are reserved for future use.

[210] After Schedule F

insert

SCHEDULE G ACCOUNTING FOR SOUTH AUSTRALIA'S STORAGE RIGHTS

PART 1 – PRELIMINARY

1. Purposes of Schedule G

The purposes of this Schedule are, in accordance with clause 130 of the Agreement:

- (a) to set out rules for giving effect to, and accounting for, South Australia's storage rights under clause 91 of the Agreement; and
- (b) to define what constitutes an effect on water availability and an effect on storage access for that clause.

2. Definitions and Interpretation

- (1) In this Schedule except where inconsistent with the context:

“**account**” means an account maintained under subclause 20 (1).

“**allocation**” has the meaning given in Schedule D.

“**deferred water**” means:

- (a) any part of South Australia's entitlement under clause 88 of the Agreement that South Australia stores under clause 91 of the Agreement; and
- (b) any allocations South Australia may have acquired for use in South Australia from within an upper State, the delivery of which has been deferred in accordance with this Schedule.

“**entitlement**” has the meaning given in Schedule D.

“**major storage**” means any one of the major storages defined by the Agreement.

“Plan” means a Deferred Water Storage and Delivery Plan approved in accordance with clause 7.

“pre-release” means to release water from a major storage solely for the purpose of creating capacity in the major storage to be used to mitigate downstream flooding.

“re-regulate” means to control water released from an upstream major storage in a downstream major storage, when the water was released for a purpose other than a planned transfer of water to the downstream major storage.

“substitute” means to alter an account to substitute a volume of water to be shown as being stored in an upstream major storage for an equivalent volume of water previously shown as being stored in a downstream major storage.

“transfer” means to transfer a volume of water held in an upstream major storage to a downstream major storage.

“unused capacity”, for a major storage at any time, means the capacity not then used by an upper State, comprising the difference between:

- (a) the lesser of:
 - (i) the target capacity of the major storage as set out in clause 116 of the Agreement; and
 - (ii) if the Authority thinks there is a risk that water may have to be released from that major storage for flood mitigation — the volume of water that the Authority estimates will be held in the major storage when the release occurs; and
- (b) the volume in storage and attributed to the upper States at that time.

“upper State” means each of New South Wales and Victoria.

“year” means the 12 months beginning on 1 June.

- (2) Expressions used in this Schedule and in the *Water Act 2007* (Commonwealth) or the Agreement that are not defined in this Schedule have the same meanings as in the Act or the Agreement.
- (3) Clause 3 of the Agreement applies to this Schedule as if a reference to the Agreement in the clause were a reference to this Schedule.

- (4) For clause 91 and paragraph 130 (6) (b) of the Agreement, storing water after the time when a part of South Australia's entitlement would otherwise have been delivered:
- (a) will have an effect on water availability for an upper State if continuing to store the part of South Australia's entitlement in accordance with the Plan, or any approved departure from the Plan, either reduces the volume of water available for allocation by the upper State or limits its ability to store any part of the State water entitlement of the upper State; and
 - (b) will have an effect on storage access by an upper State if delivering part of South Australia's entitlement that South Australia has continued to store in accordance with the Plan, or any approved departure from the Plan, limits the Authority's ability to deliver any part of the State water entitlement of the upper State because limitations on the capacity of either or both:
 - (i) river channels to carry the necessary flow; or
 - (ii) a major storage to release sufficient water;affect the ability to deliver the State water entitlements of both States simultaneously.
- (5) The Authority must determine when an effect mentioned in paragraph (4) (a) or (4) (b) has occurred, taking into account any relevant Plan, other provisions of this Schedule and any other relevant circumstances.
- (6) Whenever the Authority is required to form an opinion for this Schedule, it must do so reasonably in all the circumstances, and must take into account any relevant prevailing professional standards.

3. Commencement

Unless the Ministerial Council determines otherwise, this Schedule takes effect on the first day of the year after it is approved by the Ministerial Council.

4. Application

This Schedule:

- (a) only applies to water to be used by South Australia to meet either critical human water needs or private carry-over; and
- (b) does not entitle South Australia to store any water on behalf of an upper State; and
- (c) applies during any period of water sharing under Division 1, 2 or 3 of Part XII of the Agreement, subject to any Schedule for water sharing made under clause 135 of the Agreement; and
- (d) does not affect the ability of South Australia to store water under provisions of the Agreement other than clause 91.

PART 2 – STORING DEFERRED WATER

5. Establishing initial volumes

- (1) The volume of deferred water held in each major storage at the date the Schedule takes effect is taken to be zero.
- (2) The Authority must enter the volumes mentioned in subclause (1) in the accounts established under subclause 20 (1).

6. Permissible volume of deferred water

The volume of deferred water in each major storage must not exceed the total unused capacity of the major storage at any time.

7. Planning for storage and delivery of deferred water

- (1) By the first day of every month, the Committee member for South Australia must give to the Authority and each upper State a draft Deferred Water Storage and Delivery Plan for at least the following 12 months, that estimates the deferred water to be stored and delivered in each of those months, under either:
 - (a) minimum inflow conditions; or

- (b) other inflow conditions specified in the draft Plan.
- (2) A draft Plan must:
- (a) nominate how much of the deferred water held in storage at the commencement of the Plan is for the purpose of meeting critical human water needs; and
 - (b) for each month of the Plan, provide for the delivery of deferred water for the purpose of meeting either or both critical human water needs and private carry-over; and
 - (c) for each month of the Plan, nominate one or more preferred major storages in which water set aside as deferred water in that month might be stored; and
 - (d) for each month of the Plan, nominate one or more preferred major storages from which deferred water might be delivered; and
 - (e) for each month of the Plan, nominate any preferred transfers and substitutions of deferred water between major storages; and
 - (f) not provide for deferred water to be delivered in the same month as that water became deferred water.
- (3) The Authority must provide assistance and advice to the Committee member for South Australia for the preparation of any draft Plan if the Committee member for South Australia so requests.
- (4) When considering whether or not to approve a draft Plan, the Authority must comply with clause 50 of the Agreement.
- (5) Subject to subclauses (4), (6) and (7), the Authority must, within 14 days after receiving a draft Plan from the Committee member for South Australia:
- (a) approve the draft Plan, subject to any conditions it specifies; or
 - (b) refer the draft Plan back to the Committee member for South Australia for further consideration; or
 - (c) not approve the draft Plan.

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- (6) The Authority must approve a draft Plan unless:
 - (a) in the opinion of the Authority, the implementation of the Plan would have an effect on either or both of:
 - (i) water availability for an upper State; and
 - (ii) for deferred water stored for the purpose of meeting private carry-over by South Australia — storage access by an upper State; or
 - (b) subclause (7) applies.
 - (7) The Authority may refer a draft Plan back to the Committee member for South Australia, or refuse to approve a draft Plan, if, in the opinion of the Authority, prevailing circumstances for river operations make it impractical to implement the Plan.
 - (8) The Authority must give written reasons to the Committee member for South Australia and each upper State for not approving a draft Plan.
 - (9) The Committee member for South Australia may at any time:
 - (a) resubmit to the Authority and each upper State a draft Plan mentions in paragraph (5) (b) or (c), with or without amendments; or
 - (b) propose to the Authority in writing a departure from arrangements from time to time mentioned in a Plan.
 - (10) The Committee member for South Australia must give each upper State a copy of anything resubmitted or proposed to the Authority under subclause (9).
 - (11) Subclauses (2), (3), (4), (5), (6), (7) and (8) apply to any draft Plan, Plan or departure mentioned in subclause (9), as if a reference to a draft Plan or Plan in those subclauses were a reference to a draft Plan, Plan or departure mentioned in subclause (9).
 - (12) A draft Plan approved by the Authority under paragraph 7 (5) (a) takes effect as the Plan.
 - (13) If a departure from a Plan is approved by the Authority under subclause 7 (11), the Plan is taken to be amended accordingly.

8. Resolving disputes about Plans

- (1) If the Authority does not approve a draft Plan or a departure from a Plan under clause 7, the Committee member for South Australia or the Authority may refer the matter to the Committee.
- (2) Subclauses 33 (5) to 33 (8) of the Agreement apply to any matter referred to the Committee under subclause (1) as if it were a matter referred by the Authority under subclause 33 (5) of the Agreement.

9. When deferred water is stored

- (1) The Committee member for South Australia may request the Authority in writing to reduce the quantity of water that it would otherwise receive in any month under the Agreement, by a volume to be designated as deferred water under this Schedule.
- (2) If a request made under subclause (1) is not in accordance with the Plan approved under clause 7, the request must be taken to be a proposal for a departure from arrangements mentioned in that Plan, made under paragraph 7 (9) (b) and dealt with accordingly.
- (3) If a request made under subclause (1) is either:
 - (a) in accordance with the Plan; or
 - (b) approved as a departure from the Plan;the volume mentioned in subclause (1) becomes deferred water for this Schedule at the time when the reduced quantity of water is released for delivery to South Australia.

10. Where deferred water may be stored

- (1) South Australia may store deferred water within the unused capacity of one or more major storages.

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- (2) Subject to subclauses (3) and (4), any deferred water stored after the date this Schedule comes into effect must initially be held in the major storage from which the Authority determines that water would have been supplied, if its delivery had not been deferred.
 - (3) If the source of any deferred water stored after the date this Schedule comes into effect is a tributary of the River Murray downstream of Hume Dam, the deferred water must initially be held in Lake Victoria.
 - (4) Subclauses (2) and (3) apply whether the deferred water is either:
 - (a) part of South Australia's entitlement under clause 88 of the Agreement, that is stored under clause 91 of the Agreement; or
 - (b) allocations acquired for use in South Australia from within an upper State.

11. Transferring deferred water downstream

- (1) Subject to subclauses (5) and (6), the Authority must transfer deferred water from an upstream major storage to a downstream major storage in accordance with those provisions of a Plan, or approved departure from a Plan, that apply during minimum inflow conditions, or other inflow conditions specified in the Plan.
- (2) Despite subclause (1) but subject to subclauses (5) and (6), the Authority may transfer deferred water from an upstream major storage to a downstream major storage at any time, at the request of the Committee member for South Australia.
- (3) Despite subclause (1) but subject to subclauses (5) and (6), the Authority must, with the prior written consent of the Committee member for South Australia, transfer deferred water from an upstream major storage to a downstream major storage at any time when, in the Authority's opinion, a transfer of deferred water is required for the purpose of delivering water for the remainder of the year.

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- (4) If the Committee member for South Australia fails to consent to a transfer proposed under subclause (3), the Authority must reduce the delivery of deferred water in accordance with the Plan or approved departure from a Plan for the remainder of the year, by the amount of the proposed transfer.
 - (5) The Authority must not transfer deferred water under subclause (1), (2) or (3) if, in the opinion of the Authority, transferring the deferred water would have an effect on either or both of:
 - (a) water availability for an upper State; and
 - (b) for deferred water stored for the purpose of meeting private carry-over in South Australia — storage access by an upper State.
 - (6) The Authority may decide not to transfer deferred water in accordance with subclause (1), (2) or (3) if, in the opinion of the Authority, prevailing circumstances for river operations make it impractical to do so.
 - (7) The Authority must give written reasons to the Committee member for South Australia and for each upper State if it decides not to transfer deferred water in accordance with subclause (1) or (2), under subclause (6).
 - (8) Subject to subclause (9), the Authority must debit the account for the major storage with any deferred water transferred under this clause.
 - (9) The Authority must credit the account for a downstream major storage with any deferred water transferred to the major storage under this clause when, in the Authority's opinion, the deferred water has reached the downstream major storage.

12. Substituting deferred water upstream

- (1) Unless the Plan, or an approved departure from the Plan, provides otherwise, whenever:
 - (a) the volume of deferred water held in a downstream storage exceeds the volume of deferred water to be delivered under the Plan, or an approved departure from the Plan, during the remainder of the year; and

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- (b) the Authority, for the purpose of normal river operations, is required to transfer a volume of water from an upstream storage to a downstream storage; and
 - (c) in the Authority's view, it would be practicable to use a volume of water held in the downstream storage for the purpose mentioned in paragraph (b);

the Authority must substitute the deferred water held in the downstream storage for water held in an upstream storage.

- (2) For subclause (1), substituting deferred water held in a downstream storage for water held in an upstream storage includes substituting deferred water held in the Menindee Lakes Storage for water held in the Hume Reservoir.
- (3) The Authority must progressively adjust the relevant accounts of the upper States and South Australia maintained under Subdivisions D and E of Division 1 of Part XII of the Agreement as deferred water is substituted from a major storage to another in accordance with subclause (1) to reflect the effect of each substitution of deferred water.

PART 3 – DELIVERING DEFERRED WATER

13. Deferred water delivered at South Australia's request

- (1) Subject to subclause (2), except for deferred water that spills from a major storage, the Authority must only deliver deferred water from a major storage to South Australia in accordance with a Plan or departure from a Plan approved under clause 7.
- (2) Despite subclause (1), the Authority may deliver deferred water to South Australia at any time, at the request of the Committee member for South Australia.
- (3) The Authority may only decide not to deliver deferred water in accordance with subclause (1) or (2) if, in the opinion of the Authority, prevailing circumstances for river operations make it impractical to do so.

- (4) The Authority must give written reasons to the Committee member for South Australia and for each upper State if it decides not to deliver deferred water in accordance with subclause (1) or (2).

14. Power to cancel delivery

- (1) The Committee member for South Australia may cancel a delivery of deferred water under subclause 13 (1), or a request made to the Authority to deliver deferred water under subclause 13 (2) by writing to the Authority.
- (2) If the Authority receives a cancellation under subclause (1) after giving directions to release deferred water, the Authority must either:
- (a) store in a downstream major storage any deferred water released for delivery to South Australia before the Authority directs that the delivery of deferred water should cease; or
 - (b) if, in the Authority's opinion it is not possible to comply with paragraph (a), debit that deferred water to the relevant account.

15. Deferred water not part of South Australia's entitlement

Any deferred water delivered for use in South Australia during any period under this Schedule is in addition to, and is not part of, other water delivered to South Australia under the Agreement in the same period.

16. South Australia's exclusive right to use deferred water

Unless the Committee member for South Australia and the Committee member for an upper State agree otherwise, and subject to subclause 17 (4), the upper State must not divert any water that is taken to be deferred water by the Authority.

17. Spills and pre-releases

- (1) If:
 - (a) water spills from a major storage in which deferred water is stored; or
 - (b) water is pre-released from a major storage, in which deferred water is stored, for flood mitigation purposes;
the water must be taken to be deferred water, until a volume equivalent to the volume of deferred water stored in the major storage immediately before the relevant event has either spilled or been pre-released.
- (2) In measuring the volume of water spilled or pre-released under subclause (1), deferred water stored for the purpose of meeting private carry-over must be taken to have spilled or been pre-released before any deferred water stored for the purpose of meeting critical human water needs.
- (3) The Authority must, whenever possible, re-regulate any water taken to be deferred water under subclause (1) in a downstream major storage, for use by South Australia.
- (4) If the Authority is unable to re-regulate spilled or pre-released deferred water in accordance with subclause (3), the water must be accounted for as environmental flows.
- (5) If there is deferred water in Dartmouth Reservoir and water is transferred from Dartmouth Reservoir to Hume Reservoir, with the effect of increasing the likelihood that each of these major storages will spill simultaneously:
 - (a) the deferred water is taken to be transferred first and becomes deferred water in Hume Reservoir; and
 - (b) deferred water for the purpose of meeting private carry-over is taken to be transferred before any deferred water stored for the purposes of meeting critical human water needs.

18. Limitations on channels and storages

Unless the Committee determines otherwise, either generally or in a particular case, whenever the delivery of water is restricted due to either or both of limitations on the capacity:

- (a) of river channels to carry that flow; or
- (b) a major storage to release sufficient water to meet the commitments of any State to supply allocations at any time;

then delivery of deferred water for the purpose of meeting private carry-over must be given the lowest priority.

19. Reallocation of deferred water

- (1) Despite Part 2 and this Part, but subject to subclause (2), the Authority may reallocate volumes of deferred water between major storages and adjust the accounts accordingly if, after considering the relevant Plan, the Authority considers that it is necessary or convenient to do so in order to:
 - (a) facilitate the delivery of deferred water to South Australia; or
 - (b) assist in re-regulating any deferred water that may have spilled from a major storage; or
 - (c) operate the River Murray System efficiently.
- (2) In reallocating deferred water under subclause (1), the Authority must not:
 - (a) reduce the total volume of deferred water then held in all major storages and entered in the accounts; or
 - (b) affect either or both of:
 - (i) water availability for an upper State; or
 - (ii) for deferred water stored for the purpose of meeting private carry-over in South Australia — storage access by an upper State; or
 - (c) increase the risk that deferred water might spill from a major storage.

PART 4 – ACCOUNTING FOR DEFERRED WATER

20. Establishing and maintaining accounts

- (1) The Authority must, in accordance with the requirements of this Part, establish and maintain:
 - (a) a separate account for deferred water held in each major storage showing the respective volumes stored at any time for the purpose of meeting:
 - (i) critical human water needs; and
 - (ii) private carry-over; and
 - (b) an account showing the total deferred water held at any time; and
 - (c) an account that maintains a record of deferred water that is stored, spilled, in transit, debited for evaporation or attributed as transmission losses under clause 26 and delivered to South Australia in accordance with this Schedule.
- (2) The Authority must give a copy of each account mentioned in subclause (1) to each Committee member at the same time as the water accounts prepared under Subdivisions D and E of Division 1 of Part XII of the Agreement.
- (3) If the Authority makes a determination under subclause 2 (5) about the occurrence of an effect under paragraph 2 (4) (a) or (b), the Authority must immediately:
 - (a) notify each Committee member in writing of that effect and of any adjustment to the accounts maintained under clause 20 that the Authority considers appropriate to correct that effect; and
 - (b) make any adjustment to the accounts determined by the Committee.

21. Accounting for internal spills

The volume of deferred water in a major storage must not be taken into account when re-allocating water in the major storage under clause 116 of the Agreement.

22. Attribution of evaporative losses

- (1) The Authority must calculate and attribute to South Australia any incremental evaporative losses arising from the storage of deferred water in accordance with subclause (2) and any rules made under subclause 130 (12) of the Agreement.
- (2) For subclause (1), the Authority must:
 - (a) calculate the volume of the total net evaporative loss from all major storages; and
 - (b) estimate the volume of the total net evaporative loss that would have occurred from all major storages if no water had been stored as deferred water; and
 - (c) subtract the volume estimated under paragraph (b) from the volume calculated under paragraph (a).

23. Accounting for deferred water in Menindee Lakes Storage

Deferred water stored for private carry-over

- (1) Subclauses (2) and (3) apply whenever New South Wales becomes entitled to use water in Menindee Lakes Storage under subclause 95 (1) of the Agreement.
- (2) New South Wales may use for any purpose deferred water stored by South Australia in the Menindee Lakes Storage for the purpose of private carry-over.
- (3) The Authority must alter the existing volume in the account for deferred water stored for the purpose of private carry-over in the Menindee Lakes Storage to zero.
- (4) As soon as New South Wales is no longer able to use water under subclause 95 (1) of the Agreement, the Authority must credit the account mentioned in subclause (3) with a volume equivalent to the existing volume mentioned in subclause (3).

Deferred water stored for meeting critical human water needs.

- (5) Whenever New South Wales becomes entitled to use water under subclause 95 (1) of the Agreement, the Authority must:
- (a) attribute any credit for deferred water then stored in the Menindee Lakes Storage for the purpose of meeting critical human water needs to the relevant account for Lake Victoria; and
 - (b) reduce the relevant entry in the account for the Menindee Lakes Storage to zero; and
 - (c) adjust the accounts maintained for New South Wales under Subdivisions D and E of Division 1 of Part XII of the Agreement accordingly.

Resumption of ability to store deferred water

- (6) At the conclusion of any period mentioned in subclause 95 (1) of the Agreement South Australia may resume storing deferred water in the Menindee Lakes Storage for the purpose of private carry-over and for meeting critical human water needs.

Calculation of additional dilution flows

- (7) Any volume of deferred water stored in any major storage must be excluded from any calculation of the total volume of water held in that storage for the purposes of determining any additional quantity of water for dilution under paragraph 88 (c) of the Agreement.

24. Adjustments of accounts between major storages other than Menindee Lakes Storage

- (1) Subclause (2) applies whenever the Authority estimates that, unless the account established under subclause 20 (1) for a major storage other than Dartmouth Reservoir is adjusted, the volume of deferred water in the account may be greater than the volume by which the total volume of water held in storage exceeds the volume held in storage at the minimum operating level of that major storage.

- (2) The Authority must, whenever possible:
- (a) credit the account for deferred water stored in a major storage (the *upstream storage*) upstream of the major storage in subclause (1) (the *downstream storage*) with a volume equivalent to the difference between the volumes mentioned in subclause (1); and
 - (b) reduce the balance of the account for deferred water stored in the downstream storage to the volume by which the total volume of water held in storage exceeds the minimum operating level of that downstream storage.
- (3) Whenever the Authority estimates that, unless the account established under subclause 20 (1) for Dartmouth Reservoir is adjusted, the volume of deferred water in the account may be greater than the volume by which the total volume of water held in storage exceeds the volume held in storage at the minimum operating level of Dartmouth Reservoir, the Authority must, whenever possible:
- (a) credit the account for deferred water stored in Hume Reservoir with a volume equivalent to the difference between those two volumes; and
 - (b) reduce the balance of the account for deferred water stored in Dartmouth Reservoir by the same volume.

25. Accounting for transmission losses during regulated flows

- (1) Subclause (2) applies whenever flows from major storages are regulated and wholly contained within river channels.
- (2) The Authority must not reduce the volume of deferred water credited to an account by any amount attributable to transmission losses incurred in:
 - (a) delivering deferred water from a major storage to South Australia; or
 - (b) transferring deferred water to a downstream major storage.

26. Accounting for transmission losses during other periods

- (1) Subclause (2) applies during any period when:
 - (a) water spilling from a major storage is taken to be deferred water under clause 17; and
 - (b) the flow of water is only partly contained within river channels.
- (2) The Authority must estimate and attribute transmission losses resulting from the flow of water not contained within river channels during the period in accordance with any rules made under subclause 130 (12) of the Agreement.

27. Adjusting accounts for normal river operations

- (1) The Authority may, from time to time, adjust an account as a consequence of normal river operations if, in the opinion of the Authority, it is necessary or appropriate to do so.
- (2) Without limiting subclause (1), the Authority may adjust an account:
 - (a) to incorporate recent hydrographic data; or
 - (b) to reflect alterations in the Authority's assumptions about water losses or diversions.
- (3) The Authority must notify each Committee member in writing whenever it adjusts an account under this clause.

28. Reconciling accounts with Agreement requirements

- (1) As soon as practicable after the end of each year, the Committee member for South Australia must inform the Authority and the Committee member for each upper State in writing whether or not all regulated flows of deferred water released from major storages in the preceding year were in fact used by South Australia for either or both of the purpose of meeting critical human water needs or for private carry-over.

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- (2) As soon as practicable after the end of each year, and after taking into account any adjustments made under clause 27 in that year, the Authority must:
- (a) examine each account in order to determine:
 - (i) the extent to which South Australia was able to store deferred water in accordance with the Plan in the year; and
 - (ii) the extent to which South Australia received deliveries of deferred water in accordance with the Plan in the year; and
 - (iii) whether, in the year, storing deferred water under this Schedule has had an effect on either or both of:
 - (A) water availability for an upper State; and
 - (B) for deferred water stored for the purpose of meeting private carry-over in South Australia — storage access by an upper State; and
 - (b) report its findings to the Committee.
- (3) Any difference or dispute arising about information given under subclause (1) or findings mentioned in subclause (2) must be resolved by any means specified for resolving similar differences or disputes by the document from time to time approved under clause 31 of the Agreement.

29. Independent review of operation of Schedule

- (1) Each year the following matters must be examined and the findings reported to the Committee:
- (a) the extent to which South Australia was able to store deferred water in accordance with the Plan in the previous year;
 - (b) the extent to which South Australia received deliveries of deferred water in accordance with the Plan in the previous year;
 - (c) whether, in that previous year, storing deferred water under this Schedule had an effect on either or both of:
 - (i) water availability for an upper State; and

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- (ii) for deferred water stored for the purpose of meeting private carry-over in South Australia — storage access by an upper State.
- (2) An examination under subclause (1) must be made by:
- (a) the Independent River Operations Review Group appointed under the Objectives and Outcomes document approved under clause 31 of the Agreement; or
 - (b) if that Group has not been appointed — an independent reviewer approved by the Committee and engaged by the Authority.

PART 5 – AMENDMENT OF SCHEDULE AND RULES

30. Committee may request review

The Committee may, at any time, request the Authority to review this Schedule in accordance with clause 142 of the Agreement.

31. Amendment of Schedule

If the Authority at any time considers that the operation of any provision of the Schedule:

- (a) has had an effect, in the previous year, on either or both of the extent to which South Australia:
 - (i) was able to store deferred water; or
 - (ii) received deliveries of deferred water; or
- (b) has had, or is likely to have, either or both of an effect on:
 - (i) water availability for an upper State; or
 - (ii) for deferred water stored for the purpose of meeting private carry-over in South Australia — storage access by an upper State;

the Authority or the Committee may, after consulting the Committee or the Authority, propose to the Ministerial Council any amendment to this Schedule that the Authority considers may be necessary or appropriate to avoid that effect.

PART 6 – APPORTIONMENT OF COSTS

32. Costs of administering Schedule

The costs incurred by the Authority in administering this Schedule are taken to be incurred in the provision of river operations services, for paragraph 72 (2) (a) of the Agreement.

SCHEDULE H WATER SHARING DURING TIERS 2 AND 3

PART 1 – PRELIMINARY

1. Purposes

The purposes of this Schedule are:

- (a) to set out the way in which State water entitlements will be determined, delivered and accounted for; and
- (b) to provide for South Australia's storage rights under subclause 91 (1) of the Agreement;

during a period when either Tier 2 or Tier 3 distribution of waters applies, in accordance with clause 135 of the Agreement.

2. Definitions and Interpretation

- (1) In this Schedule except where inconsistent with the context:

“account” means an account maintained under Part XII, Division 1, Subdivision D of the Agreement.

“current critical human water needs” means critical human water needs in the current year.

“worst-case planning inflow sequence” means a sequence of monthly inflows to the River Murray System calculated by the Authority in accordance with any rule made for the purpose under paragraph 135 (14) of the Agreement.

“year” means the 12 months beginning on 1 June.

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- (2) Expressions used in this Schedule and in the *Water Act 2007* (Commonwealth) or the Agreement that are not defined in this Schedule have the same meanings as in the Act or the Agreement.

Note 1 The following expressions are defined by the relevant sections of the Water Act noted below:

- *conveyance water*-see section 86A (4)
- *critical human water needs*-see section 86A (2)
- *River Murray System*-see section 86A (3).

Note 2 The following expressions are defined in clause 2 of the Agreement:

- *Contracting Government*
- *Constructing Authority*
- *conveyance reserve*
- *current conveyance water*
- *major storages*
- *period of special accounting*.

- (3) Clause 3 of the Agreement applies to this Schedule as if a reference to the Agreement in the clause were a reference to the Schedule.

3. Commencement of Schedule

Unless the Ministerial Council determines otherwise, this Schedule takes effect on the first day of the year after it is approved by the Ministerial Council.

4. Application

- (1) Parts 1, 4 and 5 apply from the date on which this Schedule takes effect.
- (2) Part 2 applies when Tier 2 distribution of waters under the Agreement applies.
- (3) Part 3 applies when Tier 3 distribution of waters under the Agreement applies.

PART 2 – TIER 2 PROVISIONS

5. Application of Tier 1 provisions

- (1) The provisions of Tier 1 distribution of waters under the Agreement continue to apply while this Part applies, except to the extent that any of those provisions is inconsistent with a provision of this Part.
- (2) The provisions of clause 139 of the Agreement and of Schedule F continue to apply while this Part applies, except to the extent that any of those provisions are inconsistent with a provision of this Part.

6. Inability to contribute to Conveyance Reserve

- (1) If, at any time after 1 September in any year, the Authority considers that insufficient water may be distributed to a State in the year for the State to make the contribution of the State to the conveyance reserve determined under subclause 102D (4) of the Agreement, it must tell the Committee:
 - (a) its estimate of the volume of any shortfall in that State's contribution; and
 - (b) whether it considers that there is sufficient water in the River Murray System to meet the conveyance reserve.
- (2) In considering whether there may or may not be sufficient water under subclause (1), the Authority must have regard to:
 - (a) the volume of water then in storage in the River Murray System; and
 - (b) the volume of water required to be delivered from the Snowy Scheme to the River Murray System under Schedule F before the end of that year; and
 - (c) any relevant rules approved under subclause 135 (15) of the Agreement; and
 - (d) the Authority's estimate of inflows to the River Murray System before the end of that year; and
 - (e) any previously proposed remedial action taken, or to be taken by the State under clause 10.

7. Advances to meet contributions to Conveyance Reserve

- (1) If the Authority tells the Committee that there is sufficient water available in the River Murray System to meet the conveyance reserve determined under clause 102D of the Agreement, the Committee may determine whether an advance is required from one or more of the States to meet any shortfall mentioned in paragraph 6 (1) (a), and the volume of the advance.
- (2) If the Committee determines that an advance to a State is required under subclause (1), the Authority must:
 - (a) increase the water available for distribution to the State by the volume of the advance determined by the Committee; and
 - (b) decrease the water available for distribution to the other States by the same volume;without increasing the total volume of water available for distribution.

8. Insufficient water to meet Conveyance Reserve

- (1) If, at any time after 1 September in any year, the Authority considers that insufficient water may be distributed to States in that year to meet the conveyance reserve determined under subclause 102D of the Agreement, it must tell the Committee of its view.
- (2) In considering whether there may or may not be sufficient water under subclause (1), the Authority must have regard to the matters mentioned in subclause 6 (2).
- (3) On receiving advice from the Authority under subclause (1), the Committee must promptly prepare and adopt a plan of actions to be taken by each State and the Authority:
 - (a) to ensure that adequate water is available both to meet and to deliver current critical human water needs; and
 - (b) to establish a reserve to reduce the risk that there will not be sufficient water to deliver critical human water needs in the following year.

9. Insufficient current conveyance water

- (1) If, at any time, the Authority considers that there may be insufficient water set aside to meet requirements for current conveyance water, it must tell the Committee of its view.
- (2) In considering whether there may or may not be sufficient water under subclause (1), the Authority must have regard to the matters mentioned in subclause 6 (2).
- (3) If the Committee considers that there is insufficient water available to meet current conveyance water requirements, the Committee must make a declaration to that effect.

10. Taking remedial action

- (1) The Committee must, within 1 month after making a declaration under subclause 9 (3) and after considering any information given by the Authority, tell the Authority of:
 - (a) the Committee's proposal for:
 - (i) any remedial action required to ensure that current conveyance water will be available; and
 - (ii) the respective responsibilities of each Contracting Government and the Authority in implementing the remedial action; and
 - (b) when the Committee expects that the water attributable to any remedial action mentioned in subparagraph (a) (i) will be available.
- (2) At the request of the Committee, the Authority may, subject to clause 50 of the Agreement, assist in planning or implementing any remedial action taken under this clause.
- (3) The Committee may, from time to time, adopt policies to be observed by the Committee, the Authority, a Constructing Authority or a Contracting Government in relation to remedial action mentioned in this clause.

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- (4) In determining what remedial action to propose to ensure that the water mentioned in subparagraph (1) (a) (i) will be available, the Committee:
- (a) may have regard to:
 - (i) the Basin Plan; and
 - (ii) any policies adopted by the Committee in relation to remedial action; and
 - (iii) any information given by the Authority; and
 - (b) must consider what additional remedial action may be necessary and available while either Part 2 or Part 3 applies.
- (5) Unless the Committee determines otherwise, any proposal made under subclause (1) must set out:
- (a) how the water attributable to any remedial action mentioned in subparagraph (1) (a) (i) will be made available, including information about how any possible environmental or other consequences of the proposed action will be averted or remedied; and
 - (b) either the circumstances in which, or the date by which, the proposed remedial action will cease.
- (6) Before taking a remedial action proposed under subclause (1), the Committee must determine whether, under the Agreement, the action requires the approval of one or more of the Ministerial Council, the Committee or the Authority.
- (7) If the Committee determines that a proposed remedial action requires approval under the Agreement, the action must not be taken:
- (a) before it has been approved; and
 - (b) otherwise than in accordance with any conditions attached to that approval.
- (8) Unless the Committee decides otherwise, any remedial action proposed under subclause (1) must not be taken until the Committee has determined what volume of water will be made available by the proposed remedial action for subparagraph (1) (a) (i), having regard to any relevant rules made under subclause 135 (14) of the Agreement.

- (9) After a declaration under subclause 9 (3) is made, the Committee must report to the Ministerial Council:
 - (a) at least once in every 4 months; and
 - (b) at each meeting of the Ministerial Council;
on what remedial action has been taken or is proposed in accordance with this clause, to ensure that the water attributable to a remedial action mentioned in paragraph (1) (a) will be available in the current year.
- (10) The Committee must continue to report until the Committee revokes a declaration made under subclause 9 (3).
- (11) When the Committee is satisfied that current conveyance water will be available in the current year, it must:
 - (a) revoke the declaration made under subclause 9 (3); and
 - (b) report that fact to the next meeting of the Ministerial Council.

11. Adjusting accounts relating to stored water

- (1) Subject to subclause (2) and despite any other provision of the Agreement, the Authority may at any time alter the water accounts maintained by the Authority relating to the volume of a State's share of water held in a particular major storage if the Authority considers it necessary or appropriate to facilitate the delivery of current critical human water needs.
- (2) Subclause (1) does not apply to a State if the alteration would alter the total volume of water:
 - (a) held in major storages by that State; or
 - (b) entered to the credit of that State in the water accounts;
- (3) Whenever the Authority alters a water account in accordance with subclause (1), it must immediately notify each Committee member in writing of the alteration.

PART 3 – TIER 3 PROVISIONS

12. Application of Tier 1 and Tier 2 provisions

Except as otherwise determined by the Ministerial Council:

- (a) the provisions of Tier 1 distribution of waters under the Agreement and of Part 2 continue to apply while this Part applies, except to the extent that any of those provisions is inconsistent with a provision of this Part; and
- (b) the provisions of clause 139 of the Agreement and of Schedule F continue to apply while this Part applies, except to the extent that any of those provisions is inconsistent with a provision of this Part.

13. Obligations of the Committee

- (1) While this Part applies, the Committee must meet at least once in every 2 months:
 - (a) to consider possible actions which might be taken by the Ministerial Council, the Authority, a Constructing Authority or any Contracting Government; and
 - (b) to recommend any such actions to the Ministerial Council as it considers appropriate; and
 - (c) to monitor and to prepare a report to the Ministerial Council on the implementation of any actions approved by the Ministerial Council; and
 - (d) to recommend to the Ministerial Council such amendments to, or additional, actions as it considers appropriate.
- (2) The Authority may make suggestions to the Committee about any matter mentioned in subclause (1).
- (3) The Committee must take into account any suggestions made by the Authority under subclause (2) when discharging its functions under subclause (1).
- (4) Without limiting subclause (1) or (2), in discharging their functions under those subclauses, the Committee and the Authority must have regard to any relevant policies adopted by the Committee in relation to remedial action.

14. Obligations of the Ministerial Council

While this Part applies, the Ministerial Council must meet at least once in every 4 months:

- (a) to consider any recommendations or reports made by the Committee; and
- (b) to take such consequential action as it considers appropriate in the circumstances.

PART 4 – ACCOUNTING FOR WATER UNDER THIS SCHEDULE**15. Establishing and maintaining accounts**

- (1) Whenever Part 2 or Part 3 applies, the Authority must establish and maintain separate accounts for each State relating to:
 - (a) the storage and use of water for the purpose of meeting current critical human water needs; and
 - (b) water set aside for current conveyance water; and
 - (c) the storage and use of water for the purpose of meeting private carry-over; and
 - (d) water set aside for the conveyance reserve.
- (2) The Authority must apply any relevant rules adopted under subclause 135 (14) of the Agreement when maintaining accounts under subclause (1).
- (3) The Authority must give to each Committee member a copy of each account mentioned in subclause (1) at the same time as the water accounts kept under Subdivisions D and E of Division 1 of Part XII of the Agreement.

16. Reporting

- (1) Whenever Part 2 or Part 3 applies, within 14 days after the end of each month each State must give the Authority a written report setting out any alterations to each of the accounts mentioned in subclause 15 (1) for the State, required as a result of action taken in the preceding month.

- (2) If the Authority considers it necessary or appropriate to verify the contents of any report given under subclause (1), the Authority may appoint an independent auditor to investigate and advise it on the accuracy of the report.
- (3) If an independent auditor advises the Authority that a report was inaccurate in any way, the Authority must seek to resolve the matter in consultation with the relevant State.
- (4) If the Authority is unable to resolve the matter under subclause (3) within 14 days after raising it with the relevant State, the Authority may refer the matter to the Committee.
- (5) After considering any matter referred to it under subclause (4), the Committee may determine what, if any, adjustment is required to the accounts mentioned in subclause 15 (1), and the Authority must adjust the accounts accordingly.

PART 5 – REVIEW OF SCHEDULE

17. Review of Schedule

The Committee may, from time to time, recommend to the Ministerial Council that the Ministerial Council review this Schedule in accordance with subclause 135 (11) of the Agreement.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.