



Australian Capital Territory

Water Resources Amendment Act 2005

A2005-35

Contents

		Page
1	Name of Act	2
2	Commencement	2
3	Legislation amended	2
4	New section 35A	2
5	New sections 63A to 63C	3



Australian Capital Territory

Water Resources Amendment Act 2005

A2005-35

An Act to amend the *Water Resources Act 1998*, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 Name of Act

This Act is the *Water Resources Amendment Act 2005*.

2 Commencement

This Act commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

3 Legislation amended

This Act amends the *Water Resources Act 1998*.

4 New section 35A

insert

35A Licences for utilities

- (1) A utility that has an allocation and a licence to take water from a waterway may take water under the allocation from—
 - (a) the subcatchment stated in the allocation; or
 - (b) any other subcatchment in the waterway; or
 - (c) any subcatchment in any other waterway for which the utility holds an allocation and a licence to take water.
- (2) However, a utility may act under subsection (1) (b) and (c) only if—
 - (a) the environmental flow required under the guidelines and the licence is maintained in each waterway from which the water is taken; and
 - (b) the total volume of water taken by the utility is not greater than the total volume stated in all allocations held by the utility.

- (3) This section applies despite any condition of an allocation or licence held by the utility.

- (4) In this section:

subcatchment means a subcatchment described in the management plan.

utility means a utility licensed under the *Utilities Act 2000* to provide a water service.

5 New sections 63A to 63C

in part 9, insert

63A Moratorium on granting licences etc

- (1) The operation of the following provisions is suspended:
- (a) section 28 (1) to (10) (Allocation of water);
 - (b) section 35 (1) to (4) (Licence to take water);
 - (c) section 44 (1) and (2) (Bore construction permit);
 - (d) section 47 (2), (3) and (6) (Unlicensed recharge).
- (2) The operation of section 77 (3) (Review of decisions) is suspended in relation to decisions under the suspended provisions.
- (3) Without limiting subsection (1)—
- (a) an application cannot be made for an allocation, licence or permit mentioned in the suspended provisions; and
 - (b) a decision cannot be made to grant or refuse to grant an allocation, licence or permit mentioned in the suspended provisions.
- (4) Subsections (1) and (2) have effect subject to section 63B (Exceptions to moratorium).

- (5) However, subsection (1) does not affect the operation of any allocation, licence or permit (including the conditions to which it is subject) if—
 - (a) it was granted before the commencement of this section; or
 - (b) it is granted after the commencement of this section because of section 63B.

63B Exceptions to moratorium

- (1) The operation of section 28 (1) to (10) is not suspended in relation to a grant of a water allocation to a person if—
 - (a) the grant is for an allocation of ground water under particular land; and
 - (b) the person holds or held a licence under section 35 to take ground water under the land; and
 - (c) the land is the subject of a further lease of territory land granted after the commencement of section 13.
- (2) The operation of section 28 (1) to (10) is not suspended in relation to a grant of a water allocation to a water supply utility.
- (3) The operation of section 28 (1) to (10) is not suspended in relation to a grant of a water allocation if the allocation is granted under a court or tribunal order made in a proceeding started before the commencement of this section.
- (4) The operation of section 35 (1) to (4) is not suspended in relation to an application for a licence to take ground water under particular land (a *new licence*) if—
 - (a) the applicant holds or held a licence under section 35 to take ground water under the land; and
 - (b) the land is the subject of a further lease of territory land granted after the commencement of section 13.

- (5) The operation of section 35 (1) to (4) is not suspended in relation to an application for a licence to take ground water under particular land if—
- (a) the applicant holds a licence under section 35 to take ground water under the land (the *existing licence*); and
 - (b) the application is for a new licence to take a volume of ground water under the land that is not more than the volume of water stated in the existing licence; and
 - (c) the new licence would have effect after the end of the term of the existing licence.
- (6) The operation of section 35 (1) to (4) is not suspended in relation to an application for a licence to take surface water from a particular place (a *new licence*) if—
- (a) the applicant holds a licence under section 35 to take surface water from the place (the *existing licence*); and
 - (b) the application is for a new licence to take a volume of surface water from the place that is not more than the volume of water stated in the existing licence; and
 - (c) the new licence would have effect after the end of the term of the existing licence.
- (7) The operation of section 35 (1) to (4) is not suspended in relation to an application by a water supply utility for a licence to take water.
- (8) The operation of section 35 (1) to (4) is not suspended in relation to an application for a licence to take water if the licence is granted under a court or tribunal order made in a proceeding started before the commencement of this section.
- (9) The operation of section 44 (1) and (2) is not suspended in relation to an application for a bore construction permit by an applicant who—

- (a) holds a licence to take water from an existing bore; and
 - (b) is applying for a permit for works on that bore or construction of a replacement bore.
- (10) The operation of section 44 (1) and (2) is not suspended in relation to an application for a bore construction permit if the permit is granted under a court or tribunal order made in a proceeding started before the commencement of this section.
- (11) The operation of section 47 (2), (3) and (6) is not suspended in relation to an application for a recharge licence if the licence is granted under a court or tribunal order made in a proceeding started before the commencement of this section.
- (12) A regulation may prescribe other exceptions for section 63A (1).

63C End of moratorium

Section 63A, section 63B and this section expire 2 years after the day they commence.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 5 May 2005.

2 Notification

Notified under the Legislation Act on 31 August 2005.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Water Resources Amendment Bill 2005, which was passed by the Legislative Assembly on 18 August 2005.

Clerk of the Legislative Assembly

© Australian Capital Territory 2005