

2010

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for the Environment, Climate Change and Water)

Water Resources Amendment Bill 2010

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THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for the Environment, Climate Change and Water)

Water Resources Amendment Bill 2010

A Bill for

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

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

1 **1 Name of Act**

2 This Act is the *Water Resources Amendment Act 2010*.

3 **2 Commencement**

4 This Act commences on a day fixed by the Minister by written
5 notice.

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

8 *Note 2* A single day or time may be fixed, or different days or times may be
9 fixed, for the commencement of different provisions (see
10 Legislation Act, s 77 (1)).

11 *Note 3* If a provision has not commenced within 6 months beginning on the
12 notification day, it automatically commences on the first day after that
13 period (see Legislation Act, s 79).

14 **3 Legislation amended**

15 This Act amends the *Water Resources Act 2007*.

16 *Note* This Act also amends other legislation (see sch 1).

4 New section 7A

insert

7A Application of Act to national land and Googong Dam Area

(1) For this Act, the water resources of the Territory include—

- (a) surface water and ground water on national land; and
- (b) the surface water of the Googong Dam Area.

Note 1 Under the *Australian Capital Territory (Planning and Land Management Act) 1988* (Cwlth), the Territory is responsible for the management or regulation, or both, of the taking of water on national land (see that Act, s 29 (1) (c)).

Note 2 Under the *Water Act 2007* (Cwlth), the surface water of the Googong Dam Area is to be treated as if it were in the ACT (see that Act, s 63A) and the Territory is responsible for the water resource plan for that area (see that Act, s 22 (1) (Content of Basin Plan), table item 2 and div 2 (Water resource plans for particular water resource plan areas)).

(2) In this section:

Googong Dam Area—see the *Canberra Water Supply (Googong Dam) Act 1974* (Cwlth), section 3.

5 Water access entitlement—transfer Section 26 (2) (a)

substitute

- (a) the intended use of the water and the place it is proposed to be used is—
 - (i) consistent with the conditions of the entitlement; and
 - (ii) either—
 - (A) consistent with the Territory plan; or

- 1 (B) approved by the authority responsible for water
2 management in the State or Territory where the
3 water is to be used; and

4 **6 Licence to take water—requirement**
5 **Section 28 (1) to (5)**

6 *relocate as section 77A (1) to (5)*

7 **7 New section 28 (1)**

8 *insert*

- 9 (1) A person must not take water from a place if the person does not
10 have a licence to take the water from the place.

11 **8 Section 28 (6)**

12 *omit*

13 This section does not apply to—

14 *substitute*

15 However, a licence is not required for—

16 **9 Section 33 heading**

17 *substitute*

18 **33 Offences—do bore work without licence**

19 **10 Section 33 (as amended)**

20 *relocate as section 77B (1)*

- 1 **11 New section 33**
- 2 *insert*
- 3 **33 Driller's licence—requirement**
- 4 A person must not do bore work if the person does not have a
- 5 driller's licence to do the bore work.
- 6 **12 Bore work licence—requirement**
- 7 **Section 37 (1) and (2)**
- 8 *relocate as section 77B (2) and (3)*
- 9 **13 New section 37 (1)**
- 10 *insert*
- 11 (1) A person who is the owner or occupier of land must not allow bore
- 12 work to be done on the land if the person does not have a bore work
- 13 licence for the bore work.
- 14 **14 Bore work licence—decision on application**
- 15 **Section 39 (2) (a)**
- 16 *substitute*
- 17 (a) either—
- 18 (i) the bore work is for a monitoring bore; or
- 19 (ii) the applicant holds a water access entitlement or
- 20 surviving allocation for ground water to be taken from
- 21 the bore; and

15 Section 39 (2) (b)

omit

grant

substitute

issue

16 New section 39 (3)

insert

(3) In this section:

monitoring bore means a bore that—

(a) enters an aquifer; and

(b) is used to monitor the depth and fluctuations of depth in the aquifer.

**17 Waterway work licence—requirement
Section 42 (1)**

relocate as section 77C (1)

18 New section 42 (1)

insert

(1) A person must not do waterway work if—

(a) the work adversely affects, or may adversely affect, the flow or quality of water, or the aquatic habitat, in the waterway; and

(b) the person does not have a waterway work licence for the waterway work.

1	19	Section 42 (2)
2		<i>omit</i>
3		This section does not apply to
4		<i>substitute</i>
5		However, a waterway work licence is not required for
6	20	Section 47 heading
7		<i>substitute</i>
8	47	Offence—do work without recharge licence
9	21	Section 47 (as amended)
10		<i>relocate as section 77D</i>
11	22	New section 47
12		<i>insert</i>
13	47	Recharge licence—requirement
14		A person must not construct, operate or alter works for the purpose
15		of increasing the quantity of ground water if the person does not
16		have a recharge licence for the work.
17	23	Offence—failing to produce licence
18		Section 57
19		<i>relocate as section 77E</i>
20	24	Offence—contravening licence conditions
21		Section 58
22		<i>relocate as section 77F</i>

1	25	New section 58
2		<i>insert</i>
3	58	Licence conditions—requirement
4		The holder of a licence must comply with a condition of the licence.
5	26	Offences—contravening certain conditions of licence to
6		take water
7		Section 59
8		<i>relocate as section 77G</i>
9	27	Notice prohibiting or restricting taking of water
10		Section 71 (6) and penalty
11		<i>substitute</i>
12	(6)	A person must comply with a prohibition or restriction under a
13		notice under this section.
14	28	Direction to modify or remove water structure
15		Section 72 (2) and penalty
16		<i>substitute</i>
17	(2)	A person must comply with a direction given to the person under
18		this section.
19	29	Direction to rectify effect of unauthorised activity etc
20		Section 73 (3)
21		<i>omit</i>
22		<i>may</i>
23		<i>substitute</i>
24		<i>must</i>

1 **30 Section 73 (4) and penalty**

2 *substitute*

3 (4) A person must comply with a direction given to the person under
4 this section.

5 **31 Direction to prevent or rectify damage to bed or bank of
6 waterway
7 Section 74 (3)**

8 *omit*

9 *may*

10 *substitute*

11 *must*

12 **32 Section 74 (4) and penalty**

13 *substitute*

14 (4) A person must comply with a direction given to the person under
15 this section.

16 **33 Directions in relation to unlicensed taking of surface
17 water
18 Section 75 (3) and penalty**

19 *substitute*

20 (3) A person must comply with a direction given to the person under
21 this section.

34 **Directions in relation to bores**
Section 76 (3)

omit

may

substitute

must

35 Section 76 (4) and (5)

substitute

(4) A person must comply with a direction given to the person under this section.

36 New part 9A and section 77A headings

insert

Part 9A Offences

77A Offences—take water without licence

37 New section 77A (6)

insert

(6) This section does not apply if a licence is not required as mentioned in section 28 (2).

38 New section 77B (4)

insert

(4) Subsections (2) and (3) do not apply to bore work that is exempt from the requirement for a bore work licence under a regulation.

1	39	New section 77C heading
2		<i>insert</i>
3	77C	Offence—do waterway work without licence
4	40	New section 77C (2)
5		<i>insert</i>
6	(2)	This section does not apply if a waterway work licence is not
7		required as mentioned in section 42 (2).
8	41	New sections 77H and 77I
9		<i>insert</i>
10	77H	Offence—contravene notice prohibiting or restricting
11		taking of water
12		A person commits an offence if the person engages in conduct that
13		contravenes a prohibition or restriction under a notice under
14		section 71 (Notice prohibiting or restricting taking of water).
15		Maximum penalty: 100 penalty units, imprisonment for 1 year or
16		both.
17	77I	Offences—contravene directions
18	(1)	A person commits an offence if the person engages in conduct that
19		contravenes a direction given to the person under—
20	(a)	section 72 (Direction to modify or remove water structure); or
21	(b)	section 73 (Direction to rectify effect of unauthorised
22		activity etc).
23		Maximum penalty: 100 penalty units, imprisonment for 1 year or
24		both.

- 1 (2) A person commits an offence if the person engages in conduct that
2 contravenes a direction given to the person under section 74
3 (Direction to prevent or rectify damage to bed or bank of waterway).
4 Maximum penalty: 100 penalty units.
- 5 (3) A person commits an offence if the person engages in conduct that
6 contravenes a direction given to the person under—
7 (a) section 75 (Directions in relation to unlicensed taking of
8 surface water); or
9 (b) section 76 (Directions in relation to bores).
10 Maximum penalty: 50 penalty units.
- 11 (4) An offence against subsection (3) (b) is a strict liability offence.

12 **42 Dictionary, note 2**

13 *insert*

- 14
 - national land

Schedule 1 Consequential amendments

(see s 3)

Part 1.1 Magistrates Court (Water Resources Infringement Notices) Regulation 2007

[1.1] Schedule 1, items 1 to 7, column 2

substitute

77A (2)

77A (4)

77G (1)

77G (2)

77G (3)

77G (4)

77G (5)

Part 1.2 Water Resources Regulation 2007

[1.2] Section 6 heading

substitute

6 Exemptions from requirement for licence to take water— Act, s 28 (2) (e)

- 1 **[1.3] Section 10 heading**
- 2 *substitute*
- 3 **10 Exemptions from requirement for bore work licence—**
- 4 **Act, s 37 (2)**
-

Endnotes

- 1 Presentation speech**
Presentation speech made in the Legislative Assembly on 2010.
- 2 Notification**
Notified under the Legislation Act on 2010.
- 3 Republications of amended laws**
For the latest republication of amended laws, see www.legislation.act.gov.au.
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