Australian Capital Territory

Water Resources Act 2007

A2007-19

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Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Water Resources Act 2007* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 21 June 2016. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 21 June 2016.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register (www.legislation.act.gov.au). For more information, see the home page for this law on the register.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is $150 for an individual and $750 for a corporation (see *Legislation Act 2001*, s 133).

Australian Capital Territory

Water Resources Act 2007

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Australian Capital Territory

Water Resources Act 2007

An Act to provide for sustainable management of the water resources of the Territory, and for other purposes

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Part 1 Preliminary

1 Name of Act

This Act is the *Water Resources Act 2007*.

3 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain terms used in this Act, and includes references (***signpost definitions***) to other terms defined elsewhere in this Act.

For example, the signpost definition '***offence***, for part 10 (Enforcement)—see section 78.' means that the term 'offence' is defined in that section for part 10.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

4 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

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5 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 *Criminal Code*

The Criminal Code, ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg ***conduct***, ***intention***, ***recklessness*** and ***strict liability***).

Note 2 *Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

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Part 2 Main principles and concepts

6 Objects of Act

The objects of this Act are—

(a) to ensure that management and use of the water resources of the Territory sustain the physical, economic and social wellbeing of the people of the ACT while protecting the ecosystems that depend on those resources; and

(b) to protect aquatic ecosystems and aquifers from damage and, where practicable, to reverse damage that has already happened; and

(c) to ensure that the water resources are able to meet the reasonably foreseeable needs of future generations.

7 Territory rights to water

Subject to this Act, the right to the use, flow and control of all water of the Territory is vested in the Territory and is exercisable by the Minister on behalf of the Territory.

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

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(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.

8 Surface water

For this Act, ***surface water*** means—

(a) water on or flowing over land (including in a waterway) after having—

(i) fallen as rain or hail or precipitated in any other way; or

(ii) risen to the surface naturally from underground; or

(iii) been returned to the environment following treatment or use; and

(b) water mentioned in paragraph (a) that has been collected in a dam, reservoir or rainwater tank.

9 Ground water

(1) For this Act, ***ground water*** means water occurring or obtained from below the surface of the ground or beneath a waterway.

(2) ***Ground water*** includes water occurring in or obtained or flowing from a bore.

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(3) However, ***ground water*** does not include water occurring in or obtained or flowing from any other system for the distribution, reticulation, transportation, storage or treatment of water or waste.

10 Waterway

(1) For this Act, ***waterway*** means—

(a) a river, creek, stream or other natural channel in which water flows (whether continuously or intermittently); or

(b) the stormwater system or any other channel formed (whether completely or partly) by altering or relocating a waterway mentioned in paragraph (a); or

(c) a lake, pond, lagoon or marsh (whether formed by geomorphic processes or by works) in which water collects (whether continuously or intermittently).

(2) ***Waterway*** includes—

(a) the bed that the water in the waterway normally flows over or is covered by; and

(b) the banks that the water in the waterway normally flows between or is contained by.

(3) However, ***waterway*** does not include land normally not part of the waterway that may be covered from time to time by floodwaters from the waterway.

(4) In this section:

stormwater means water run-off that is normally collected by a stormwater system.

stormwater system means a system of pipes, gutters, drains and channels that are public works constructed to collect or transport stormwater in or through an urban area.

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11 Taking water

(1) For this Act, ***take*** water includes—

(a) in relation to surface water—

(i) withdraw, pump, extract or use surface water; and

(ii) divert surface water for the purpose of using it; and

(iii) do anything else that results in a reduction of flow of surface water in a waterway; and

(b) in relation to ground water—allow ground water to flow or be pumped from a bore.

(2) However, a person does not ***take*** water if the person uses water taken by someone else under a licence to take water.

Example—s (2)

using water provided by a water utility

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

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Part 3 Environmental flow guidelines

12 Environmental flow guidelines

(1) The Minister may approve guidelines (***environmental flow guidelines***) for working out the flow of water that is needed to maintain aquatic ecosystems.

Note Power to make a statutory instrument (including guidelines) includes power to amend or repeal the instrument (see Legislation Act, s 46 (1)).

(2) Environmental flow guidelines approved by the Minister are a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

13 Environmental flow guidelines—preparation by authority

(1) Before the Minister approves environmental flow guidelines, the authority must prepare draft environmental flow guidelines for the Minister's approval.

(2) In preparing draft guidelines, the authority must consider principally the ecological needs of aquatic ecosystems but may also take into account the environmental, economic and social impact of the guidelines.

14 Environmental flow guidelines—consultation

(1) After preparing draft guidelines under section 13, the authority must prepare a notice (a ***consultation notice***)—

(a) containing a brief description of the draft guidelines; and

(b) stating that copies of the draft guidelines are available for public inspection for a period (the ***consultation period***) and at the place stated in the notice; and

(c) inviting people to give written comments about the draft guidelines to the authority in the consultation period.

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(2) The consultation period must be at least 60 days.

(3) The consultation notice is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

(4) The authority must give additional public notice of the consultation notice.

Note ***Public notice*** means notice on an ACT government website or in a daily newspaper circulating in the ACT (see Legislation Act, dict, pt 1). The requirement in s (4) is in addition to the requirement for notification on the legislation register as a notifiable instrument.

(5) The authority must consider any written comments given to it in the consultation period and may revise the draft guidelines in accordance with the comments as it considers appropriate.

(6) This section does not apply to a draft amendment of the environmental flow guidelines that is to make formal changes only.

15 Environmental flow guidelines—submission to Minister

(1) The authority must submit the draft guidelines (including any revision under section 14 (5)) to the Minister for approval, together with a written report—

(a) about the authority's consultation with the public and with any particular person or entity about the draft guidelines; and

(b) setting out the issues raised in the comments given to the authority under section 14 in the consultation period.

(2) On receiving draft guidelines submitted for approval, the Minister may—

(a) approve the guidelines as submitted; or

(b) refer the draft back to the authority with a written direction to do 1 or more of the following:

(i) conduct further stated consultation;

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(ii) consider any revision suggested by the Minister;

(iii) revise the draft in a stated way.

(3) If the Minister refers draft guidelines back to the authority under subsection (2) (b), the authority must—

(a) comply with the Minister's directions; and

(b) resubmit the draft guidelines (with any revisions required) to the Minister for approval together with a written report about the authority's compliance with the Minister's directions and about any revision of the draft guidelines.

(4) Subsection (2) applies to draft guidelines resubmitted to the Minister for approval.

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Part 4 Water access entitlements

16 Water management areas

(1) The Minister must determine areas (***water management areas***) for managing the water resources of the Territory.

(2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

17 Amounts of water available from areas

(1) The Minister must determine—

(a) the total amount of surface water that is available for taking in each water management area; and

(b) the total amount of ground water that is available for taking in each water management area.

(2) The amounts must be determined taking into account—

(a) the environmental flow guidelines; and

(b) the total water resources of the Territory; and

(c) any investigations undertaken by the authority to establish sustainable yields for the water management area.

(3) The Minister may also determine, for any water management area, an amount of the water determined under subsection (1) that is to be reserved for future use.

(4) If the Minister makes a determination reducing the amount of water reserved for future use under subsection (3), the determination may state the reason for the reduction.

(5) A determination under this section is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

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18 Amounts of water reasonable for uses

(1) The Minister may determine guidelines for working out the amounts of water that are reasonable amounts for particular uses.

Note Decisions about granting water access entitlements and issuing licences to take water require consideration of what are reasonable amounts for intended uses (see s 21 (2) (a) (ii) and s 30 (2) (c)).

(2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

19 Water access entitlements

(1) A ***water access entitlement*** is an entitlement to the amount of surface water or ground water stated in the entitlement.

(2) The amount must be stated as the lesser of—

(a) a percentage of the total amount of the surface water or ground water available for taking from time to time in the water management area stated in the entitlement; and

(b) a stated maximum volume.

Note Because a water access entitlement entitles the holder to a percentage of the water available for taking, and that amount is likely to vary from time to time, the entitlement does not guarantee that a particular volume of water, or any water, will be available under the entitlement.

20 Water access entitlement—application

(1) A person may apply to the Minister for a water access entitlement.

Note 1 If a form is approved under s 108 for this provision, the form must be used.

Note 2 A fee may be determined under s 107 for this provision.

(2) The application must be in writing and must state—

(a) the applicant's name; and

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(b) whether the applicant seeks surface water or ground water; and

(c) the amount of water sought; and

(d) the water management area to which the amount relates; and

(e) the intended use of the water; and

(f) the place where the applicant intends to access the water and the basis of the applicant's right to have access to that place.

(3) The Minister may, by written notice given to the applicant, require the applicant to give the Minister additional information or documents the Minister reasonably needs to decide the application.

(4) If the applicant does not comply with a requirement under subsection (3), the Minister may refuse to consider the application further.

21 Water access entitlement—decision on application

(1) On application by a person for a water access entitlement, the Minister must—

(a) grant the water access entitlement; or

(b) refuse to grant the water access entitlement.

(2) The Minister must not grant the water access entitlement unless satisfied that—

(a) the amount of water to which the entitlement would give access—

(i) is available for taking having regard to any determination in force under section 17 (Amounts of water available from areas) and any other water access entitlements and surviving allocations that exist in relation to the water management area; and

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(ii) is not more than a reasonable amount for the intended use having regard to any determination in force under section 18 (Amounts of water reasonable for uses); and

(b) the water is not intended to be used on urban residential property; and

(c) the intended use of the water is otherwise consistent with the Territory plan; and

(d) the applicant does not hold a surviving allocation; and

Note Surviving allocations are water allocations that were granted under the repealed Act. A person holding a surviving allocation may surrender it, and be granted a water access entitlement, under this Act, pt 13 (Surviving allocations).

(e) it is appropriate to grant the entitlement having regard to—

(i) the applicant's environmental record; and

(ii) anything else the Minister considers relevant.

(3) Subsection (2) (b) does not apply if the applicant is a water utility.

(4) In deciding applications, the Minister must give priority—

(a) first, to any application for surface water by the owner or occupier of land who—

(i) was previously able to take water without a licence because the water was taken from a waterway on or immediately adjacent to the land; and

(ii) can no longer do so because a boundary change was made to the land, on the Territory's initiative, after the commencement of this Act; and

(iii) is seeking the water for stock or domestic use; and

(b) second, to any application by a person who does not have access to urban water supply and is seeking the water for stock or domestic use; and

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(c) after that, as the Minister considers appropriate.

22 Water access entitlement—content

A water access entitlement must state—

(a) the name of the holder of the entitlement; and

(b) the amount of surface water or ground water that may be taken; and

Note The amount must be stated as the lesser of a percentage of the total amount of water available for taking in the water management area and a stated maximum volume (see s 19 (2)).

(c) the water management area to which the amount relates; and

(d) if the holder does not have access to urban water supply and the entitlement is for water for stock or domestic use—

(i) that the water is for stock or domestic use; and

(ii) the place where the water may be taken; and

(e) anything else required under this Act to be stated in the water access entitlement.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

23 Water access entitlement—conditions

(1) A water access entitlement is subject to any condition—

(a) imposed when the entitlement is granted; or

(b) prescribed by regulation; or

(c) imposed on amendment of the entitlement under section 24.

Examples of conditions to which water access entitlement may be subject

1 that the water may be used only for the purpose stated in the entitlement

2 that the water may be used only in a water management area

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3 that the water may be taken only from the place stated in the entitlement

4 for an entitlement to ground water granted to enable a bore to be drilled—that the entitlement will expire at the end of 12 months after the entitlement is granted if ground water is not found in that period.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(2) The conditions to which a water access entitlement is subject are taken to be conditions of any licence to take water that is based on the entitlement.

24 Water access entitlement—amendment

(1) The authority may amend a water access entitlement, including by imposing a condition on, or amending an existing condition of, the entitlement.

Note A fee may be determined under s 107 for this provision.

(2) However, the authority may amend an entitlement only if—

(a) the authority has given the holder of the entitlement written notice of the proposed amendment; and

(b) the notice states that written comments on the proposal may be made to the authority before the end of a stated period of at least 14 days after the day the notice is given to the holder; and

(c) the authority has considered any comments made before the end of the stated period.

(3) Subsection (2) does not apply if the holder applied for, or agreed in writing to, the proposed amendment.

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(4) The amendment of an entitlement takes effect on—

(a) the date on which notice of the amendment is given to the holder; or

(b) if a later date is stated in the notice—that date.

(5) A condition imposed or amended by the authority must not be inconsistent with any condition prescribed by regulation that applies to the entitlement.

(6) This section does not apply to an amendment made under section 25.

25 Water access entitlement—special provision for certain entitlements based on surviving allocations etc

(1) This section applies to a water access entitlement granted by the authority under section 111 (Surviving allocations—surrender generally) or section 202 (Water access entitlement for certain existing licence holders) that includes a statement about where the water may be taken.

Note 1 The statement is included on—

- water access entitlements granted under s 111 if no fee was paid under the repealed Act for the grant of the surrendered allocation; and
- all water access entitlements granted under s 202.

Note 2 Section 202 was in pt 20 (Transitional) which expired in 2008. A transitional provision is repealed on its expiry but continues to have effect after its repeal (see Legislation Act, s 88).

(2) On application by the holder of the entitlement, the authority must amend the water access entitlement to remove the statement.

Note A fee may be determined under s 107 for this provision.

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(3) The authority must also amend the entitlement to remove the statement before—

(a) approving a transfer of the entitlement; or

(b) making any other amendment of the entitlement.

Example—s (3) (b)

changing the percentage of water that may be taken stated in the entitlement

Note 1 A fee may be determined under s 107 for this provision.

Note 2 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(4) Subsection (3) does not apply in relation to—

(a) an entitlement held by a water utility; or

(b) an entitlement that—

(i) is held by a person who does not have access to urban water supply; and

(ii) is for water for stock or domestic use; or

(c) an amendment of an entitlement held by an individual that is to be made only because the individual has changed his or her name.

26 Water access entitlement—transfer

(1) The holder of a water access entitlement may, with the approval of the authority, transfer the whole or part of the entitlement to someone else.

Note A fee may be determined under s 107 for this provision.

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(2) The authority must not approve the transfer of a water access entitlement unless satisfied that—

(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

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

(b) it is appropriate to approve the transfer having regard to—

(i) the transferee's environmental record; and

(ii) anything else the authority considers relevant.

(3) A transfer of a water access entitlement may be absolute or for a limited period.

(4) A transfer of part of a water access entitlement must be for units no smaller than 0.5ML.

(5) A water access entitlement that entitles the holder to water for stock or domestic use on particular land may be transferred to someone else only if the holder's interest in the land is also transferred to that person.

(6) A regulation may make provision in relation to the transfer of water access entitlements.

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27 Water access entitlement—effect of transfer on licence to take water

(1) If a person transfers absolutely the whole of a water access entitlement or corresponding water access entitlement to which a licence to take water relates, the licence is taken to be cancelled.

(2) If a person transfers, for a limited period, the whole of a water access entitlement or corresponding water access entitlement to which a licence to take water relates, the licence is taken to be suspended for the period.

(3) If a person transfers absolutely part of a water access entitlement or corresponding water access entitlement to which a licence to take water relates, the amount of water the person is authorised to take under the licence is taken to be reduced by the amount of the transfer.

(4) If a person transfers, for a limited period, part of a water access entitlement or corresponding water access entitlement to which a licence to take water relates, the amount of water the person is authorised to take under the licence is taken to be reduced by the amount of the transfer for the period.

(5) In this section:

corresponding water access entitlement means a water access entitlement (however described) granted under a law of the Commonwealth, a State or another Territory that regulates the granting of entitlements to water and is prescribed by regulation for this definition.

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Part 5 Licences

Division 5.1 Licences to take water

28 Licence to take water—requirement

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

(2) However, a licence is not required for—

(a) the taking of water from a waterway—

(i) for camping or similar purposes; or

(ii) for watering travelling stock; or

Examples—par (a) (i)

1 bushwalking

2 picnicking

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(b) the taking of rainwater from a rainwater tank that—

(i) has been installed in accordance with a development approval under the *Planning and Development Act 2007*, chapter 7 (Development approvals); or

(ii) is an exempt development within the meaning of that Act; or

(c) the owner or occupier of land on or immediately adjacent to which there is a waterway who takes water from the waterway, or surface water from the land, for stock or domestic use; or

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(d) the exercise or purported exercise by a relevant person of a function under the *Emergencies Act 2004* for the purpose of—

(i) protecting life or property; or

(ii) controlling, extinguishing or preventing the spread of a fire; or

(e) the taking of water by a person who is exempt under a regulation from the requirement to have a licence.

(3) In this section:

relevant person means—

(a) a member of the ambulance service; or

(b) a member of the fire and rescue service; or

(c) a member of the rural fire service; or

(d) a member of the SES; or

(e) any other person under the control of—

(i) the chief officer (ambulance service); or

(ii) the chief officer (fire and rescue service); or

(iii) the chief officer (rural fire service); or

(iv) the chief officer (SES); or

(f) a police officer.

29 Licence to take water—application

(1) A person may apply to the authority for a licence to take water from a stated place.

Note 1 If a form is approved under s 108 for this provision, the form must be used.

Note 2 A fee may be determined under s 107 for this provision.

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(2) The authority may, by written notice given to the applicant, require the applicant to give the authority additional information or documents the authority reasonably needs to decide the application.

(3) If the applicant does not comply with a requirement under subsection (2), the authority may refuse to consider the application further.

30 Licence to take water—decision on application

(1) On application by a person for a licence to take water, the authority must—

(a) issue the licence; or

(b) refuse to issue the licence.

(2) The authority must not issue the licence unless satisfied that—

(a) the applicant—

(i) holds a water access entitlement, a corresponding water access entitlement or a surviving allocation on which to base the taking of water under the licence; or

(ii) is exempt from this requirement under a regulation; and

(b) the water to be taken under the licence is to be taken from—

(i) the water management area stated in the water access entitlement or subcatchment stated in the surviving allocation; or

(ii) another water management area from which the water may be taken under section 32 (Licence to take water—where water may be taken) or under a regulation; and

(c) the amount of water to be taken under the licence is not more than a reasonable amount for the intended use having regard to any determination in force under section 18; and

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(d) the water is not intended to be used on urban residential property; and

(e) the intended use of the water is otherwise consistent with the Territory plan; and

(f) the applicant has lawful authority—

(i) to obtain access to the place from which the water is to be taken under the licence; and

(ii) if the water is to be diverted from that place to where it is to be used—to divert the water; and

(g) if the application relates to a development for which an approval is required under the *Planning and Development Act 2007*, chapter 7 (Development approvals)—the development has been approved under that chapter.

(3) Also the authority must not issue the licence unless satisfied it is appropriate to do so having regard to—

(a) the applicant's environmental record; and

(b) whether issuing the licence would or may—

(i) adversely affect the environmental flows for a particular waterway or aquifer that are required under the environmental flow guidelines; or

(ii) adversely affect the environment in any other way; or

(iii) adversely affect the interests of other water users; and

(c) anything else the authority considers relevant.

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(4) Subsection (2) (d) does not apply—

(a) to a water utility; or

(b) if the entitlement on which the licence is to be based—

(i) was granted under section 111 (Surviving allocations—surrender generally) or section 202 (Water access entitlement for certain existing licence holders) (whether or not it has been later transferred); and

(ii) allows the water to be used on stated urban residential property.

(5) A regulation made for subsection (2) (a) may authorise the authority to exempt a person from the requirement mentioned in that subsection in the circumstances prescribed by regulation.

31 Licence to take water—conditions

(1) A licence to take water is subject to any condition—

(a) prescribed by regulation; or

(b) imposed on the licence by the authority.

Examples of conditions to which licence may be subject

1 that records must be kept

2 that a water meter must be installed, operated and maintained

3 that information about compliance with licence conditions must be given to the authority

4 that monitoring and testing must be done after water is taken

5 that places from which water is taken must be marked in a stated way

6 that water may only be taken at a stated rate (which may be different for different days of the year)

7 that not more than a stated maximum amount of water may be taken

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8 that water must not be taken from a waterway at a time when there is no or little flow in the waterway

9 that the authority must be allowed to conduct regular routine inspections

Note 1 The licence is also subject to any condition that applies to a water access entitlement on which the licence is based (see s 23 (2)).

Note 2 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(2) A condition imposed by the authority must not be inconsistent with any condition prescribed by regulation that applies to the licence.

32 Licence to take water—where water may be taken

(1) A licence to take water held by a water utility may authorise the utility to take surface water under the licence from—

(a) the water management area stated in the water access entitlement on which the licence is based; or

(b) a place in a waterway that is downstream from the water management area; or

(c) any other water management area for which the utility holds a water access entitlement.

(2) A licence to take water held by a person other than a water utility may authorise the person to take surface water under the licence from—

(a) the water management area stated in the water access entitlement on which the licence is based; or

(b) if the water management area is prescribed by regulation for this paragraph—a place in a waterway that is downstream from the water management area; or

(c) if the water is to be used for road works, earthworks or other construction, or landscaping—any water management area.

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(3) A licence to take water must not authorise ground water to be taken under the licence from a water management area other than the water management area stated in the water access entitlement on which the licence is based.

(4) In this section:

water access entitlement includes a surviving allocation.

Note ***Surviving allocation*** is defined in s 110.

Division 5.2 Driller's licences

33 Driller's licence—requirement

A person must not do bore work if the person does not have a driller's licence to do the bore work.

34 Driller's licence—application

(1) A person may apply to the authority for a driller's licence.

Note 1 If a form is approved under s 108 for this provision, the form must be used.

Note 2 A fee may be determined under s 107 for this provision.

(2) The authority may, by written notice given to the applicant, require the applicant to give the authority additional information or documents the authority reasonably needs to decide the application.

(3) If the applicant does not comply with a requirement under subsection (2), the authority may refuse to consider the application further.

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35 Driller's licence—decision on application

(1) On application by a person for a driller's licence, the authority must—

(a) issue the licence; or

(b) refuse to issue the licence.

(2) The authority must not issue a driller's licence unless satisfied that—

(a) the applicant has the qualifications (if any) approved under subsection (3); and

(b) it is appropriate to issue the licence having regard to—

(i) the applicant's environmental record; and

(ii) anything else the authority considers relevant.

(3) The authority may approve qualifications that must be held by a person who holds a driller's licence.

(4) An approval is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

36 Driller's licence—conditions

(1) A driller's licence is subject to any condition—

(a) prescribed by regulation; or

(b) imposed on the licence by the authority.

(2) A condition imposed by the authority must not be inconsistent with any condition prescribed by regulation that applies to the licence.

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Division 5.3 Bore work licences

37 Bore work licence—requirement

(1) A person who is the owner or occupier of land must not allow bore work to be done on the land if the person does not have a bore work licence for the bore work.

(2) This section does not apply to bore work that is exempt from the requirement for a bore work licence under a regulation.

38 Bore work licence—application

(1) A person may apply to the authority for a licence to do bore work.

Note 1 If a form is approved under s 108 for this provision, the form must be used.

Note 2 A fee may be determined under s 107 for this provision.

(2) The authority may, by written notice given to the applicant, require the applicant to give the authority additional information or documents the authority reasonably needs to decide the application.

(3) If the applicant does not comply with a requirement under subsection (2), the authority may refuse to consider the application further.

39 Bore work licence—decision on application

(1) On application by a person for a bore work licence, the authority must—

(a) issue the licence; or

(b) refuse to issue the licence.

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(2) The authority must not issue a bore work licence unless satisfied that—

(a) either—

(i) the bore work is for a monitoring bore; or

(ii) the applicant holds a water access entitlement or surviving allocation for ground water to be taken from the bore; and

(b) it is appropriate to issue the licence having regard to—

(i) the proximity of any existing bores; and

(ii) anything else the authority considers relevant.

(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.

40 Bore work licence—conditions

(1) A bore work licence is subject to any condition—

(a) prescribed by regulation; or

(b) imposed on the licence by the authority.

(2) A condition imposed by the authority must not be inconsistent with any condition prescribed by regulation that applies to the licence.

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Division 5.4 Waterway work licences

41 Definitions––Act

In this Act:

water structure means—

(a) a dam (whether or not it is in or on a waterway); or

(b) another water retention structure in or on a waterway.

waterway work means—

(a) constructing or altering a water structure; or

(b) doing other work in or on a waterway.

42 Waterway work licence—requirement

(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.

(2) However, a waterway work licence is not required for the construction or alteration of—

(a) a water structure that has a capacity of less than 2ML and is not in a waterway; or

(b) a structure prescribed by regulation.

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43 Waterway work licence—application

(1) A person may apply to the authority for a licence to do waterway work.

Note 1 If a form is approved under s 108 for this provision, the form must be used.

Note 2 A fee may be determined under s 107 for this provision.

(2) The authority may, by written notice given to the applicant, require the applicant to give the authority additional information or documents the authority reasonably needs to decide the application.

(3) If the applicant does not comply with a requirement under subsection (2), the authority may refuse to consider the application further.

44 Waterway work licence—decision on application

(1) On application by a person for a waterway work licence, the authority must—

(a) issue the licence; or

(b) refuse to issue the licence.

(2) The authority must not issue a waterway work licence unless satisfied it is appropriate to do so having regard to—

(a) whether issuing the licence would or may—

(i) adversely affect the environmental flows for a particular waterway or aquifer that are required under the environmental flow guidelines; or

(ii) adversely affect the environment in any other way; or

(iii) adversely affect the interests of other water users; and

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(b) whether the work would be in the interests of the public; and

(c) for work that involves the construction or alteration of a water structure—

(i) whether the structure is designed to allow water to pass over, under or through it; and

(ii) the need for the structure and whether another more appropriate approach is available; and

(d) anything else the authority considers relevant.

45 Waterway work licence—conditions

(1) A waterway work licence is subject to any condition—

(a) prescribed by regulation; or

(b) imposed on the licence by the authority.

(2) A condition imposed by the authority must not be inconsistent with any condition prescribed by regulation that applies to the licence.

46 Planning and Development Act not affected

This division does not affect the operation of the *Planning and Development Act 2007*.

Division 5.5 Recharge licences

47 Recharge licence—requirement

A person must not construct, operate or alter works for the purpose of increasing the quantity of ground water if the person does not have a recharge licence for the work.

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48 Recharge licence—application

(1) A person may apply to the authority for a recharge licence.

Note 1 If a form is approved under s 108 for this provision, the form must be used.

Note 2 A fee may be determined under s 107 for this provision.

(2) The authority may, by written notice given to the applicant, require the applicant to give the authority additional information or documents the authority reasonably needs to decide the application.

(3) If the applicant does not comply with a requirement under subsection (2), the authority may refuse to consider the application further.

49 Recharge licence—decision on application

(1) On application by a person for a recharge licence, the authority must—

(a) issue the licence; or

(b) refuse to issue the licence.

(2) The authority must not issue a recharge licence unless satisfied it is appropriate to do so having regard to—

(a) the applicant's environmental record; and

(b) the risk of the rising level of ground water damaging soil, rock or structures; and

(c) the risk of damaging ecosystems that depend on the area in question; and

(d) the risk of affecting the natural drainage of surface water of the area in question; and

(e) anything else the authority considers relevant.

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50 Recharge licence—conditions

(1) A recharge licence is subject to any condition—

(a) prescribed by regulation; or

(b) imposed on the licence by the authority.

(2) A condition imposed by the authority must not be inconsistent with any condition prescribed by regulation that applies to the licence.

51 Recharge licence—cancellation

The authority may cancel a recharge licence if satisfied that the work being carried out under the licence is—

(a) damaging soil, rock or structures; or

(b) damaging ecosystems that depend on the area in question; or

(c) affecting the natural drainage of surface water of the area in question.

Note A recharge licence may also be cancelled under pt 6 (Disciplinary action) or s 106 (Nonpayment of fees).

Division 5.6 Licences—general provisions

52 Licences—term

A licence is issued for the term stated in the licence.

53 Licences—renewal

(1) The holder of a licence may apply, in writing, to the authority for renewal of the licence.

Note 1 If a form is approved under s 108 for this provision, the form must be used.

Note 2 A fee may be determined under s 107 for this provision.

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(2) The application must be made not later than 14 days before the end of the licence period.

(3) If the application is made in accordance with subsection (2), the licence remains in force, subject to this Act, until the application is decided.

(4) On application to renew a licence, the authority must—

(a) renew the licence; or

(b) refuse to renew the licence.

(5) If the authority renews the licence, the renewal of the licence begins on the day after the day the licence being renewed ends.

(6) A suspended licence may be renewed, but the renewed licence is suspended until the suspension ends.

54 Licences—not transferable

A licence is not transferable.

55 Licences—amendment

(1) The authority may amend a licence, including by imposing a condition on, or amending an existing condition of, the licence.

(2) However, the authority may amend a licence only if—

(a) the authority has given the licence holder written notice of the proposed amendment; and

(b) the notice states that written comments on the proposal may be made to the authority before the end of a stated period of at least 14 days after the day the notice is given to the holder; and

(c) the authority has considered any written comments made before the end of the stated period.

(3) Subsection (2) does not apply if the holder applied for, or agreed in writing to, the proposed amendment.

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(4) A condition imposed or amended by the authority must not be inconsistent with any condition prescribed by regulation that applies to the licence.

(5) The amendment of a licence takes effect on—

(a) the date on which notice of the amendment is given to the holder; or

(b) if a later date is stated in the notice—that date.

56 Licences—surrender

The holder of a licence may surrender the licence to the authority by written notice accompanied by the licence.

58 Licence conditions—requirement

The holder of a licence must comply with a condition of the licence.

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Part 6 Disciplinary action

60 Grounds for disciplinary action

Each of the following is a ***ground*** for disciplinary action against a person who holds a water access entitlement, surviving allocation or licence:

(a) the person gave information to the Minister or authority in relation to the application for, or an application for amendment of, the entitlement, allocation or licence that was false or misleading in a material particular;

(b) the person has contravened, or is contravening, a condition of the entitlement, allocation or licence;

(c) the person has contravened, or is contravening, this Act (or a requirement made under this Act), whether or not the holder has been convicted or found guilty of an offence for the contravention;

(d) the person has contravened, or is contravening, another territory law or a law of the Commonwealth, a State or another Territory (whether or not the person has been convicted or found guilty of an offence for the contravention) and the authority has reasonable grounds for believing that the contravention would adversely affect the person's suitability to hold the entitlement, allocation or licence.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

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61 Disciplinary action

Each of the following is ***disciplinary action*** when taken against a person who is the holder of a water access entitlement, surviving allocation or licence:

(a) reprimanding the person;

(b) for a driller's licence—requiring the person to complete a stated course of training to the satisfaction of the authority or another stated person;

(c) amending the entitlement, allocation or licence, including by imposing a condition on it or amending any of its conditions;

(d) suspending the entitlement, allocation or licence—

(i) for a stated period; or

(ii) until a stated event happens;

(e) cancelling the entitlement, allocation or licence;

(f) cancelling the entitlement, allocation or licence and disqualifying the person from applying for an entitlement or licence—

(i) for a stated period; or

(ii) until a stated event happens.

62 Taking disciplinary action

(1) If the authority proposes to take disciplinary action in relation to a person, the authority must give the person a written notice (a ***disciplinary notice***) that—

(a) states the proposed action (including any proposed suspension or disqualification period or amendment of an entitlement, allocation or licence); and

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(b) states the grounds for the proposed action; and

(c) tells the person that the person may, not later than 14 days after the day the person receives the notice, give a written response to the authority about the notice.

(2) In deciding whether to take disciplinary action, the authority must consider any response given to the authority by the person in accordance with the notice.

(3) The authority may take the proposed disciplinary action in relation to the person if satisfied that a ground for taking disciplinary action has been established in relation to the person.

(4) The authority must give the person written notice of the authority's decision.

(5) Disciplinary action under this section takes effect on—

(a) the day when notice of the decision is given to the person; or

(b) if the notice states a later date of effect—that date.

63 Effect of suspension of entitlement, allocation or licence

(1) If a water access entitlement, surviving allocation or licence is suspended—

(a) the entitlement, allocation or licence does not authorise the holder to do anything authorised under the entitlement, allocation or licence during the suspension; and

(b) the holder is, during the suspension—

(i) taken not to hold the entitlement, allocation or licence; and

(ii) disqualified from applying for an entitlement or licence.

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(2) However, the entitlement may still be transferred, and the allocation may still be surrendered, in accordance with this Act.

(3) The authority may end the suspension of an entitlement that is transferred or an allocation that is surrendered.

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Part 7 Administration

64 Functions of environment protection authority

(1) The authority has the following functions under this Act:

(a) to keep the state and condition of the water resources of the Territory under review;

(b) to coordinate policies in relation to water resource management;

(c) to regulate the allocation of water from waterways;

(d) to compile and maintain up-to-date information about the water resources of the Territory;

(e) to promote the importance, and encourage the efficient use, of water resources;

(f) to foster public education about the management of water resources;

(g) to implement national water resource measures made under national scheme laws or intergovernmental agreements relating to water resource management;

(h) to confer, and exchange information, with any entity having functions corresponding to those of the authority under a law of the Commonwealth, a State or another Territory relating to water resource management;

(i) any other functions given to the authority under this Act.

(2) In exercising the authority's functions under this Act, the authority must have regard to the objects set out in section 6 and, where appropriate, promote an integrated approach to water resource management, environment protection and water catchment management.

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65 Delegation

The authority may delegate its functions under this Act to a public employee.

Note For the making of delegations and the exercise of delegated functions, see Legislation Act, pt 19.4.

66 Register

(1) The authority must keep a register for this Act.

(2) The register may be kept in any form, including electronically, that the authority decides.

(3) The register must include details of each of the water access entitlements granted, surviving allocations in force, licences issued and transfers made under this Act.

(4) The register may also include—

(a) information required to be provided to the authority under a water access entitlement, surviving allocation or licence; and

(b) information given to the authority about third party interests in water access entitlements, surviving allocations or licences; and

(c) other information collected by the authority in carrying out its functions under this Act; and

Example

the results of monitoring, testing or recording carried out by the authority

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(d) any other information given to or held by the authority in relation to the water resources of the Territory (whether current or historical).

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67 Inspection of register

(1) The register must be available for public inspection at reasonable times.

(2) A person may, on payment of the reasonable copying costs, obtain a copy of any information in the register.

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Part 7A ACT and region catchment management coordination group

67A Coordination group—establishment

The ACT and region catchment management coordination group (the ***coordination group***) is established.

67B Coordination group—functions

(1) The coordination group has the following functions:

(a) to advise the Minister on matters relating to water catchment management in the ACT and the Australian capital water catchment region;

(b) any other function given to the group under this Act or another territory law.

Note 1 A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

Note 2 A provision of a law that gives an entity a function also gives the entity powers necessary and convenient to exercise the function (see Legislation Act, s 196 and dict, pt 1, def ***entity***).

(2) Without limiting subsection (1), the matters on which the coordination group may advise the Minister include the following:

(a) priorities for water catchment management in the ACT and the Australian capital catchment region;

(b) actions or strategies to build partnerships, manage or develop activities and share information with the Commonwealth, a Commonwealth authority, a State or a State agency, including any investment opportunities;

(c) actions or strategies to improve water catchment health;

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(d) actions or strategies to coordinate investment in relation to water catchment management with the Commonwealth, a Commonwealth authority, a State or a State agency;

(e) likely impacts of a proposed development or event on water catchment management in the ACT and the Australian capital water catchment region;

(f) actions or strategies for a proposed development or event to address likely impacts on water catchment management;

(g) any other matter in relation to water catchment management referred to the group by the Minister.

(3) In exercising its functions, the coordination group—

(a) must try to—

(i) encourage early and effective information sharing between members of the group, and any relevant agency or community group; and

(ii) raise awareness of catchment management issues to encourage community action in promoting catchment health; and

(b) must consider—

(i) any relevant information the group is aware of from the business and community sector; and

(ii) information available in a report that the Minister requires the group to consider; and

(c) may consider any other relevant information.

(4) In this section:

area—see the *Local Government Act 1993* (NSW), dictionary, definition of ***area***.

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capital water catchment region means the region made up of areas within the boundaries of the following councils:

(a) Cooma-Monaro Shire;

(b) Palerang Council;

(c) Queanbeyan City Council;

(d) Yass Valley Local Government.

council—see the *Local Government Act 1993* (NSW), dictionary, definition of ***council***.

67C Minister to consider coordination group advice

In exercising a function under this Act, the Minister must consider any relevant advice given to the Minister by the coordination group.

67D Annual report by coordination group

(1) For each financial year, the coordination group must prepare a report about the group's activities during the financial year, including any advice given, or recommendations made, to the Minister.

(2) The group must give the report to the Minister within 3 months after the end of the financial year.

(3) The Minister must, within 21 days after receiving the report, table the following in the Legislative Assembly:

(a) the report;

(b) a statement by the Minister responding to any advice given or recommendations made to the Minister in the group's annual report.

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(4) However, if there are no sitting days during the 21-day period—

(a) the Minister must give the report and the statement, and a copy of each for each member of the Legislative Assembly, to the Speaker; and

(b) the report and the statement are taken for all purposes to have been tabled in the Legislative Assembly on the day the Minister gives it to the Speaker (the ***report day***); and

(c) the Speaker must arrange for a copy of the report and a copy of the statement to be given to each member of the Legislative Assembly on the report day; and

(d) despite paragraph (b), the Speaker must present the report and the statement to the Legislative Assembly on the next sitting day.

(5) In this section:

Speaker includes—

(a) if the Speaker is unavailable—the Deputy Speaker; and

(b) if both the Speaker and the Deputy Speaker are unavailable—the clerk of the Legislative Assembly.

unavailable—the Speaker or Deputy Speaker is ***unavailable*** if—

(a) the Speaker or Deputy Speaker is absent from duty; or

(b) there is a vacancy in the office of Speaker or Deputy Speaker.

67E Coordination group—membership

(1) The coordination group is made up of the following members:

(a) the director-general of the—

(i) Chief Minister, Treasury and Economic Development Directorate; and

(ii) Environment and Planning Directorate; and

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(iii) Health Directorate; and

(iv) Territory and Municipal Services Directorate;

(b) the commissioner of the ACT Emergency Services Agency;

(c) a representative of the national capital authority, who is nominated, in writing, by the authority;

(d) a representative of the New South Wales government agency with responsibility for water catchment management in the Australian capital water catchment region (however described), who is appointed by the Minister;

(e) a representative of the community's interests in water catchment management, who is appointed by the Minister;

(f) a chair, who is appointed by the Minister and not otherwise mentioned in this section;

(g) any other person prescribed by regulation.

Note The group can still function with a vacancy in membership (see Legislation Act, s 199 (5)).

(2) The Minister must not appoint a person to the group unless satisfied that the person has appropriate knowledge and experience in an area relevant to the operation of this Act.

(3) The conditions of appointment of a member under this section are the conditions stated in the appointment, subject to any determination under the *Remuneration Tribunal Act 1995*.

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(4) The Legislation Act, division 19.3.3 (Appointments—Assembly consultation) does not apply to an appointment under this section.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

Note 3 A person may be reappointed to a position if the person is eligible to be appointed to the position (see Legislation Act, s 208 and dict, pt 1, def ***appoint***).

(5) An appointment is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

(6) In this section:

government agency means a government department (however described) or statutory authority.

67F Ending of appointments

The Minister may end the appointment of a member of the coordination group—

(a) for misbehaviour; or

(b) if the member becomes bankrupt or personally insolvent; or

Note ***Bankrupt or personally insolvent***—see the Legislation Act, dictionary, pt 1.

(c) if the member is convicted, or found guilty, in Australia of an offence punishable by imprisonment for at least 1 year; or

(d) if the member is convicted, or found guilty, outside Australia of an offence that, if it had been committed in the ACT, would be punishable by imprisonment for at least 1 year; or

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(e) if the member is absent for 3 consecutive meetings without leave of the chair; or

(f) for physical or mental incapacity that substantially affects the exercise of the member's functions.

Note A person's appointment also ends if the person resigns (see Legislation Act, s 210).

67G Coordination group—general procedure

(1) Meetings of the coordination group are to be held when and where it decides.

(2) The coordination group may conduct its proceedings (including its meetings) as it considers appropriate.

67H Coordination group—quorum at meetings

Business may be carried on at a meeting of the coordination group only if at least 5 members of the group are present.

67I Voting at coordination group meetings

At a meeting of the coordination group, a question is decided by the majority of the votes of the group members present and voting.

67J Reimbursement of expenses for coordination group members

(1) A member of the coordination group is not entitled to be paid for the exercise of the member's functions.

(2) However, a member may apply to the director-general for reimbursement of expenses reasonably incurred by the member for the purpose of attending a meeting or otherwise performing a function of the coordination group, subject to any determination under the *Remuneration Tribunal Act 1995*.

(3) Subsection (2) does not apply to a group member who is a public servant.

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Part 8 Assessment of water resources

68 Water resources investigation

(1) The authority must ensure, as far as possible, that a continuous program for the assessment of water resources of the Territory is carried out.

(2) For this part, the authority may—

(a) construct, repair, alter or remove gauging, recording and monitoring stations or drill bores; and

(b) systematically gauge stream flow, record climate data and monitor ground water levels; and

(c) operate or maintain gauging, recording and monitoring stations; and

(d) carry out investigations to determine the existence, location and nature of bores and water structures; and

(e) monitor bores and water structures; and

(f) sample and analyse water.

(3) The authority may, at all reasonable times, enter land to take measures and carry out work that is reasonably required for the purpose of doing something mentioned in subsection (2) and with the people and equipment that is reasonably required.

Note The Criminal Code, s 361 and s 363 contain offences for obstructing Territory public officials.

(4) However, the authority must not enter land to do work mentioned in subsection (2) (a) unless, at least 14 days before the entry day, the authority gave the owner or occupier of the land written notice (a ***works notice***) of—

(a) the land proposed to be entered; and

(b) the work proposed to be done; and

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(c) any vehicle, plant or machinery proposed to be used to carry out the work.

(5) The authority may, at all reasonable times, enter land on which work mentioned in a works notice is being, or has been, done for the purpose of doing something mentioned in subsection (2) (b), (c), (d), (e) or (f) and with the people and equipment that is reasonably required.

(6) This section does not authorise entry into a part of premises that is being used for residential purposes other than with the occupier's consent.

(7) A person who enters land under this section is not authorised to remain on the land if, on request by the occupier of the land, the person does not produce—

(a) for an authorised officer—the officer's identity card; or

(b) in any other case—a certificate signed by the authority for this section that the person is authorised to carry out an activity mentioned in the certificate.

69 Cooperation etc with other jurisdictions

For this part, the authority may liaise and work in cooperation with the Commonwealth or a State in the investigation of water resources in which there is a shared interest.

70 Things fixed to land by authority not taken to be fixtures

If, in the exercise of a function, the authority attaches anything to land, it is taken not to be—

(a) a fixture to the land for the purpose of giving the owner or occupier of the land a proprietary interest in it; or

(b) an improvement.

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Part 9 Protection of water resources

71 Notice prohibiting or restricting taking of water

(1) This section applies if—

(a) temporary water restrictions are in force under the *Utilities (Water Conservation) Regulation 2006*; or

(b) the Minister is satisfied that—

(i) because of contamination of surface water or ground water, taking the water may pose a risk to the health or safety of people or of damage to property or the environment; or

(ii) for any other reason, taking surface water or ground water may adversely affect the environment.

(2) The Minister may, by notice, prohibit or restrict the taking of surface water or ground water.

(3) The notice is a notifiable instrument.

Note 1 A notifiable instrument must be notified under the Legislation Act.

Note 2 The power to make a statutory instrument (including a notifiable instrument) includes power to make different provisions in relation to different matters or different classes of matters, and provisions that apply differently by reference to stated exceptions or factors (see Legislation Act, s 48).

(4) The authority must also give a copy of the notice to each licence holder who is affected by it.

(5) The notice expires on the date (not later than 12 months after the day it is notified under the Legislation Act) stated in the notice.

(6) A person must comply with a prohibition or restriction under a notice under this section.

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72 Direction to modify or remove water structure

(1) The Minister may give the owner or occupier of land where a water structure is located a written direction to modify or remove the structure to allow water to pass over, under or through it.

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

73 Direction to rectify effect of unauthorised activity etc

(1) This section applies if a person has—

(a) done bore work or waterway work that is not authorised under a licence; or

(b) contravened a condition of a licence issued under this Act.

(2) The authority may give the owner or occupier of the land where the work was done or the contravention happened a written direction to take—

(a) stated action to rectify the effect of the work or contravention; and

(b) any other stated action the authority considers appropriate.

(3) The direction must state a period within which the person must comply with the direction.

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

74 Direction to prevent or rectify damage to bed or bank of waterway

(1) It is the duty of the owner or occupier of land on which there is a waterway or that adjoins a waterway to take reasonable steps to prevent damage to the bed or banks of the waterway.

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(2) If the authority is satisfied that the owner or occupier of land has failed to carry out the duty, the authority may give the owner or occupier a written direction to take stated action the authority considers appropriate—

(a) to prevent damage mentioned in subsection (1); and

(b) to rectify any damage that has already happened.

(3) The direction must state a period within which the person must comply with the direction.

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

(5) In this section:

damage does not include—

(a) damage caused in the normal course of an activity authorised under this Act; or

(b) damage of a minor nature.

75 Directions in relation to unlicensed taking of surface water

(1) This section applies if the authority is satisfied that a person who does not have a licence to take water from a waterway—

(a) has taken or is taking water from the waterway; or

(b) has pumping equipment in or near the waterway that may be used to take water from the waterway.

(2) The authority may give the person a written direction to do 1 or more of the following:

(a) not take the water;

(b) stop taking the water;

(c) not use the pumping equipment;

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(d) stop using the pumping equipment;

(e) remove the pumping equipment from the waterway.

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

76 Directions in relation to bores

(1) This section applies if the authority is satisfied that something done or not done in relation to a bore may result, directly or indirectly, in the pollution or deterioration, inequitable distribution, loss, wastage or undue depletion of water, or unlicensed taking of water.

(2) The authority may give the owner or occupier of the land where the bore is located a written direction to do 1 or more of the following:

(a) shut off the supply of ground water from the bore in the way stated in the direction;

(b) restrict or limit the amount of water taken from the bore to the extent stated in the direction;

(c) install and maintain a suitable meter to record the amount of water taken or discharged from the bore;

(d) discontinue the use of the bore;

(e) close, or partly or completely plug, seal off or backfill the bore in the way stated in the direction;

(f) use the water taken from the bore for the purpose stated in the direction;

(g) do any other stated thing necessary for the protection of ground water or an aquifer.

(3) The direction must state a period within which the person must comply with the direction.

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

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77 Action by authority if notice or direction contravened

(1) This section applies if—

(a) the authority has reasonable grounds for believing that a person has engaged in conduct that contravened—

(i) a prohibition or restriction under a notice given to the person under section 71; or

(ii) a direction given to the person under this part; and

(b) the person was told, in writing, about the effect of this section when the notice or direction was given to them.

(2) An authorised officer, or someone else authorised by the authority for this section, may—

(a) enter the relevant land and take any action stated in the notice or direction; and

(b) do anything else necessary to give effect to the notice or direction.

(3) This section does not authorise entry into a part of premises that is being used for residential purposes other than with the occupier's consent.

(4) A person who enters land under this section is not authorised to remain on the land if, on request by the occupier of the land, the person does not produce—

(a) for an authorised officer—the officer's identity card; or

(b) in any other case—a certificate signed by the authority for this section that the person is authorised to carry out an activity mentioned in the certificate.

(5) The reasonable costs incurred by the authority in taking action under this section are a debt owing to the Territory by the person to whom the notice or direction was given.

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Part 9A Offences

77A Offences—take water without licence

(1) A person commits an offence if the person—

(a) takes surface water or ground water from a place; and

(b) does not have a licence to take the water from the place.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(2) A person who is the owner or occupier of land commits an offence if the person—

(a) takes ground water from a bore on the land; and

(b) does not have a licence to take the ground water.

Maximum penalty: 50 penalty units.

(3) An offence against subsection (2) is a strict liability offence.

(4) A person commits an offence if the person—

(a) in the conduct of a business carrying or extracting water, takes surface water from a place; and

(b) does not have a licence to take the surface water.

Maximum penalty: 50 penalty units.

(5) An offence against subsection (4) is a strict liability offence.

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

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77B Offences—do bore work without licence

(1) A person commits an offence if the person—

(a) does bore work; and

(b) does not hold a driller's licence to do the bore work.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

Note ***Driller's licence*** means a licence under s 35.

(2) A person who is the owner or occupier of land commits an offence if—

(a) bore work is done on the land; and

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

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(3) A person who is the holder of a driller's licence commits an offence if—

(a) the person does bore work on land; and

(b) the owner or occupier of the land does not have a bore work licence for the bore work.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

Note ***Bore work licence*** means a licence under s 39.

(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.

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77C Offence—do waterway work without licence

(1) A person commits an offence if—

(a) the person does waterway work; and

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

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

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

(2) A person commits an offence if the person—

(a) does waterway work; and

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

Maximum penalty: 50 penalty units.

(3) An offence against subsection (2) is a strict liability offence.

(4) This section does not apply if a waterway work licence is not required as mentioned in section 42 (2).

77D Offence—do work without recharge licence

A person commits an offence if the person—

(a) does any of the following work for the purpose of increasing the quantity of ground water:

(i) constructs works;

(ii) operates works;

(iii) alters works; and

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

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

77E Offence—failing to produce licence

(1) The holder of a licence must, if asked by the authority, produce the holder's licence to the authority when carrying out an activity under the licence.

Maximum penalty: 5 penalty units.

(2) An offence against this section is a strict liability offence.

77F Offence—contravening licence conditions

(1) The holder of a licence commits an offence if the holder contravenes a condition of the licence.

Maximum penalty: 50 penalty units.

(2) The holder of a bore work licence or driller's licence commits an offence if—

(a) the holder's licence is subject to a condition requiring the holder to give a bore completion report to the authority; and

(b) the holder contravenes the condition.

Maximum penalty: 25 penalty units.

(3) An offence against this section is a strict liability offence.

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(4) In this section:

bore completion report, for a bore, means a report prepared by the person who drilled the bore that sets out the details of the bore.

Examples—details of the bore

1 diameter and length of the bore

2 whether a sleeve or case was fitted inside the edge of the bore

3 the geology and soil types found while drilling the bore

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

77G Offences—contravening certain conditions of licence to take water

(1) The holder of a licence to take water commits an offence if—

(a) the holder's licence is subject to a condition requiring the holder to install a water meter; and

(b) the holder contravenes the condition.

Maximum penalty: 25 penalty units.

(2) The holder of a licence to take water commits an offence if—

(a) the holder's licence is subject to a condition requiring the holder to maintain a water meter in working condition; and

(b) the holder contravenes the condition.

Maximum penalty: 25 penalty units.

(3) The holder of a licence to take water commits an offence if—

(a) the holder's licence is subject to a condition requiring the holder to record water meter readings at stated times or intervals; and

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(b) the holder contravenes the condition.

Maximum penalty: 10 penalty units.

(4) The holder of a licence to take water commits an offence if—

(a) the holder's licence is subject to a condition requiring the holder to give water meter data to the authority; and

(b) the holder contravenes the condition.

Maximum penalty: 25 penalty units.

(5) The holder of a licence to take water commits an offence if—

(a) the holder's licence is subject to a condition limiting the use of the water; and

(b) the holder contravenes the condition.

Maximum penalty: 50 penalty units.

(6) An offence against this section is a strict liability offence.

77H Offence—contravene notice prohibiting or restricting taking of water

A person commits an offence if the person engages in conduct that contravenes a prohibition or restriction under a notice under section 71 (Notice prohibiting or restricting taking of water).

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

77I Offences—contravene directions

(1) A person commits an offence if the person engages in conduct that contravenes a direction given to the person under—

(a) section 72 (Direction to modify or remove water structure); or

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(b) section 73 (Direction to rectify effect of unauthorised activity etc).

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

(2) A person commits an offence if the person engages in conduct that contravenes a direction given to the person under section 74 (Direction to prevent or rectify damage to bed or bank of waterway).

Maximum penalty: 100 penalty units.

(3) A person commits an offence if the person engages in conduct that contravenes a direction given to the person under—

(a) section 75 (Directions in relation to unlicensed taking of surface water); or

(b) section 76 (Directions in relation to bores).

Maximum penalty: 50 penalty units.

(4) An offence against subsection (3) (b) is a strict liability offence.

77J Offences—water meter tampering

(1) A person commits an offence if the person tampers with a water meter.

Maximum penalty: 50 penalty units.

(2) This section does not apply if the person is—

(a) a person prescribed by regulation who is installing, maintaining, repairing or replacing the water meter; or

(b) acting with the written permission of the authority; or

(c) a holder of a licence to take water complying with a requirement under this part.

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(3) In this section:

tamper with a water meter—

(a) means interfere with, damage or destroy the water meter; and

(b) includes—

(i) unsealing any sealed component of the meter; or

(ii) blocking any part of the meter; or

(iii) attaching to the meter any device that is likely to affect the operation of the meter; or

(iv) disconnecting the meter from its power source.

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Part 10 Enforcement

Division 10.1 General

78 Definitions—pt 10

In this part:

connected—a thing is ***connected*** with an offence if—

(a) the offence has been committed in relation to it; or

(b) it will provide evidence of the commission of the offence; or

(c) it was used, is being used, or is intended to be used, to commit the offence.

occupier, of premises, includes—

(a) a person believed, on reasonable grounds, to be an occupier of the premises; and

(b) a person apparently in charge of the premises.

offence includes an offence that there are reasonable grounds for believing has been, is being, or will be, committed.

premises includes land.

Division 10.2 Powers of authorised officers

79 Power to enter premises

(1) For this Act, an authorised officer may—

(a) at any reasonable time, enter premises to which a licence relates to carry out an inspection authorised under the licence; or

(b) at any reasonable time, enter premises where a bore is located to inspect the bore and take samples from it; or

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(c) at any time, enter premises with the occupier's consent; or

(d) enter premises in accordance with a search warrant.

(2) However, subsection (1) (a) does not authorise entry into a part of premises that is being used for residential purposes.

(3) An authorised officer may, without the consent of the occupier of premises, enter land around the premises to ask for consent to enter the premises.

(4) To remove any doubt, an authorised officer may enter premises under subsection (1) without payment of an entry fee or other charge.

80 Production of identity card

An authorised officer must not remain at premises entered under this part if the authorised officer does not produce the officer's identity card when asked by the occupier.

81 Consent to entry

(1) When seeking the consent of an occupier of premises to enter premises under section 79 (1) (c), an authorised officer must—

(a) produce the officer's identity card; and

(b) tell the occupier—

(i) the reason for the entry; and

(ii) that anything found and seized under this part may be used in evidence in court; and

(iii) that consent may be refused.

(2) If the occupier consents, the authorised officer must ask the occupier to sign a written acknowledgment (an ***acknowledgement of consent***)—

(a) that the occupier was told—

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(i) the reason for the entry; and

(ii) that anything found and seized under this part may be used in evidence in court; and

(iii) that consent may be refused; and

(b) that the occupier consented to the entry; and

(c) stating the time and date when consent was given.

(3) If the occupier signs an acknowledgment of consent, the authorised officer must immediately give a copy to the occupier.

(4) A court must find that the occupier did not consent to entry to the premises by the authorised officer under this part if—

(a) the question arises in a proceeding in the court whether the occupier consented to the entry; and

(b) an acknowledgment of consent is not produced in evidence; and

(c) it is not proved that the occupier consented to the entry.

82 General powers on entry to premises

(1) An authorised officer who enters premises under this part may, for this Act, do 1 or more of the following in relation to the premises or anything on the premises:

(a) inspect or examine;

(b) take measurements or conduct tests;

(c) take samples;

(d) take photographs, films, or audio, video or other recordings;

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(e) require the occupier, or anyone at the premises, to give the authorised officer reasonable assistance to exercise a power under this part.

Note The Legislation Act, s 170 and s 171 deal with the application of the privilege against self incrimination and client legal privilege.

(2) A person must take all reasonable steps to comply with a requirement made of the person under subsection (1) (e).

Maximum penalty: 50 penalty units.

83 Power to seize things

(1) An authorised officer who enters premises under this part with the occupier's consent may seize anything at the premises if—

(a) the authorised officer is satisfied, on reasonable grounds, that the thing is connected with an offence against this Act; and

(b) seizure of the thing is consistent with the purpose of the entry told to the occupier when seeking the occupier's consent.

(2) An authorised officer who enters premises under a warrant under this part may seize anything at the premises that the authorised officer is authorised to seize under the warrant.

(3) An authorised officer who enters premises under this part (whether with the occupier's consent, under a warrant or otherwise) may seize anything at the premises if satisfied, on reasonable grounds, that—

(a) the thing is connected with an offence against this Act; and

(b) the seizure is necessary to prevent the thing from being—

(i) concealed, lost or destroyed; or

(ii) used to commit, continue or repeat the offence.

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(4) Also, an authorised officer who enters premises under this part (whether with the consent of a person in charge of the premises, under a warrant or otherwise) may seize anything at the premises if satisfied, on reasonable grounds, that the thing poses a risk to the health or safety of people or of damage to property or the environment.

(5) The powers of an authorised officer under subsections (3) and (4) are additional to any powers of the authorised officer under subsections (1) and (2) or any other territory law.

(6) Having seized a thing, an authorised officer may—

(a) remove the thing from the premises where it was seized (the ***place of seizure***) to another place; or

(b) leave the thing at the place of seizure but restrict access to it.

(7) A person commits an offence if the person —

(a) interferes with a seized thing, or anything containing a seized thing, to which access has been restricted under subsection (6); and

(b) does not have an authorised officer's approval to interfere with the thing.

Maximum penalty: 50 penalty units.

84 Power to require name and address

(1) An authorised officer may require a person to state the person's name and home address if the authorised officer believes, on reasonable grounds, that the person is committing or has just committed an offence against this Act.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

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(2) The authorised officer must tell the person the reason for the requirement and, as soon as practicable, record the reason.

(3) The person may ask the authorised officer to produce the officer's identity card for inspection by the person.

(4) A person must comply with a requirement made of the person under subsection (1) if the authorised officer—

(a) tells the person the reason for the requirement; and

(b) complies with any request made by the person under subsection (3).

Maximum penalty: 10 penalty units.

(5) An offence against this section is a strict liability offence.

Division 10.3 Search warrants

85 Warrants generally

(1) An authorised officer may apply to a magistrate for a warrant to enter premises.

(2) The application must be sworn and state the grounds on which the warrant is sought.

(3) The magistrate may refuse to consider the application until the authorised officer gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

(4) The magistrate may issue a warrant only if satisfied there are reasonable grounds for suspecting—

(a) there is a particular thing or activity connected with an offence against this Act; and

(b) the thing or activity—

(i) is, or is being engaged in, at the premises; or

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(ii) may be, or may be engaged in, at the premises within the next 7 days.

(5) The warrant must state—

(a) that an authorised officer may, with any necessary assistance and force, enter the premises and exercise the authorised officer's powers under this part; and

(b) the offence for which the warrant is issued; and

(c) the things that may be seized under the warrant; and

(d) the hours when the premises may be entered; and

(e) the date, within 7 days after the day of the warrant's issue, the warrant ends.

86 Warrants—application made other than in person

(1) An authorised officer may apply for a warrant by phone, fax, radio or other form of communication if the authorised officer considers it necessary because of—

(a) urgent circumstances; or

(b) other special circumstances.

(2) Before applying for the warrant, the authorised officer must prepare an application stating the grounds on which the warrant is sought.

(3) The authorised officer may apply for the warrant before the application is sworn.

(4) After issuing the warrant, the magistrate must immediately fax a copy to the authorised officer if it is practicable to do so.

(5) If it is not practicable to fax a copy to the authorised officer—

(a) the magistrate must tell the authorised officer—

(i) the warrant's terms; and

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(ii) the date and time the warrant was issued; and

(b) the authorised officer must complete a form of warrant (the ***warrant form***) and write on it—

(i) the magistrate's name; and

(ii) the date and time the magistrate issued the warrant; and

(iii) the warrant's terms.

(6) The faxed copy of the warrant, or the warrant form properly completed by the authorised officer, authorises the entry and the exercise of the authorised officer's powers under this part.

(7) The authorised officer must, at the first reasonable opportunity, send to the magistrate—

(a) the sworn application; and

(b) if the authorised officer completed a warrant form—the completed warrant form.

(8) On receiving the documents, the magistrate must attach them to the warrant.

(9) A court must find that a power exercised by the authorised officer was not authorised by a warrant under this section if—

(a) the question arises in a proceeding in the court whether the exercise of power was authorised by a warrant; and

(b) the warrant is not produced in evidence; and

(c) it is not proved that the exercise of power was authorised by a warrant under this section.

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87 Search warrants—announcement before entry

(1) An authorised officer must, before anyone enters premises under a search warrant—

(a) announce that the authorised officer is authorised to enter the premises; and

(b) give anyone at the premises an opportunity to allow entry to the premises; and

(c) if the occupier of the premises, or someone else who apparently represents the occupier, is present at the premises—identify himself or herself to the person.

(2) The authorised officer is not required to comply with subsection (1) if the authorised officer believes, on reasonable grounds, that immediate entry to the premises is required to ensure—

(a) the safety of anyone (including the authorised officer or any person assisting); or

(b) that the effective execution of the warrant is not frustrated.

88 Details of search warrant to be given to occupier etc

If the occupier of premises, or someone else who apparently represents the occupier, is present at the premises while a search warrant is being executed, the authorised officer or a person assisting must make available to the person—

(a) a copy of the warrant; and

(b) a document setting out the rights and obligations of the person.

89 Occupier entitled to be present during search etc

(1) If the occupier of premises, or someone else who apparently represents the occupier, is present at the premises while a search warrant is being executed, the person is entitled to observe the search being conducted.

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(2) However, the person is not entitled to observe the search if—

(a) to do so would impede the search; or

(b) the person is under arrest, and allowing the person to observe the search being conducted would interfere with the objectives of the search.

(3) This section does not prevent 2 or more areas of the premises being searched at the same time.

Division 10.4 Return and forfeiture of things seized

90 Receipt for things seized

(1) As soon as practicable after an authorised officer seizes a thing under this part, the authorised officer must give a receipt for it to the person from whom it was seized.

(2) If, for any reason, it is not practicable to comply with subsection (1), the authorised officer must leave the receipt, secured conspicuously, at the place of seizure under section 83 (Power to seize things).

(3) A receipt under this section must include the following:

(a) a description of the thing seized;

(b) an explanation of why the thing was seized;

(c) the authorised officer's name, and how to contact the authorised officer;

(d) if the thing is moved from the premises where it is seized—where the thing is to be taken.

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91 Moving things to another place for examination or processing under search warrant

(1) A thing found at premises entered under a search warrant may be moved to another place for examination or processing to decide whether it may be seized under the warrant if—

(a) both of the following apply:

(i) there are reasonable grounds for believing that the thing is or contains something to which the warrant relates;

(ii) it is significantly more practicable to do so having regard to the timeliness and cost of examining or processing the thing at another place and the availability of expert assistance; or

(b) the occupier of the premises agrees in writing.

(2) The thing may be moved to another place for examination or processing for not longer than 72 hours.

(3) An authorised officer may apply to a magistrate for an extension of time if the authorised officer believes, on reasonable grounds, that the thing cannot be examined or processed within 72 hours.

(4) The authorised officer must give notice of the application to the occupier of the premises, and the occupier is entitled to be heard on the application.

(5) If a thing is moved to another place under this section, the authorised officer must, if practicable—

(a) tell the occupier of the premises the address of the place where, and time when, the examination or processing will be carried out; and

(b) allow the occupier or the occupier's representative to be present during the examination or processing.

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(6) The provisions of this part relating to the issue of search warrants apply, with any necessary changes, to the giving of an extension under this section.

92 Access to things seized

A person who would, apart from the seizure, be entitled to inspect a thing seized under this part may—

(a) inspect it; and

(b) if it is a document—take extracts from it or make copies of it.

93 Return or forfeiture of things seized

(1) A thing seized under this part must be returned to its owner, or reasonable compensation must be paid by the Territory to the owner for the loss of the thing, if—

(a) an infringement notice for an offence relating to the thing is not served on the owner within 90 days after the day of the seizure and a prosecution for an offence relating to the thing—

(i) is not started within the 90-day period; or

(ii) is started within the 90-day period but the court does not find the offence proved; or

(b) an infringement notice for an offence relating to the thing is served on the owner within 90 days after the day of the seizure, the infringement notice is withdrawn and a prosecution for an offence relating to the thing—

(i) is not started within the 90-day period; or

(ii) is started within the 90-day period but the court does not find the offence proved; or

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(c) an infringement notice for an offence relating to the thing is served on the owner and not withdrawn within 90 days after the day of the seizure, liability for the offence is disputed in accordance with the *Magistrates Court Act 1930*, section 132 (Disputing liability for infringement notice offence) and an information—

(i) is not laid in the Magistrates Court against the person for the offence within 60 days after the day notice is given under section 132 that liability is disputed; or

(ii) is laid in the Magistrates Court against the person for the offence within the 60-day period, but the Magistrates Court does not find the offence proved.

(2) If anything seized under this part is not required to be returned or reasonable compensation is not required to be paid under subsection (1), the thing—

(a) is forfeited to the Territory; and

(b) may be sold, destroyed or otherwise disposed of as the authority directs.

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Part 11 Notification and review of decisions

94 Meaning of *reviewable decision*—pt 11

In this part:

reviewable decision means a decision mentioned in schedule 1, column 3 under a provision of this Act mentioned in column 2 in relation to the decision.

95 Reviewable decision notices

If the authority makes a reviewable decision, the authority must give a reviewable decision notice to each entity mentioned in schedule 1, column 4 in relation to the decision.

Note 1 The authority must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see *ACT Civil and Administrative Tribunal Act 2008*, s 67A).

Note 2 The requirements for reviewable decision notices are prescribed under the *ACT Civil and Administrative Tribunal Act 2008*.

96 Applications for review

The following may apply to the ACAT for review of a reviewable decision:

(a) an entity mentioned in schedule 1, column 4 in relation to the decision;

(b) any other person whose interests are affected by the decision.

Note If a form is approved under the *ACT Civil and Administrative Tribunal Act 2008* for the application, the form must be used.

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Part 12 Miscellaneous

97 Protection of officials from liability

(1) In this section:

official means—

(a) the authority; or

(b) anyone else exercising a function under this Act.

(2) An official, or anyone engaging in conduct under the direction of an official, is not personally liable for conduct engaged in honestly and without recklessness—

(a) in the exercise of a function under this Act; or

(b) in the reasonable belief that the conduct was in the exercise of a function under this Act.

(3) Any civil liability that would, apart from subsection (2), attach to an official attaches instead to the Territory.

98 Damage etc to be minimised

(1) In the exercise, or purported exercise, of a function under this Act, an authorised officer must take all reasonable steps to ensure that the authorised officer, and any person assisting the authorised officer, causes as little inconvenience, detriment and damage as practicable.

(2) If an authorised officer, or a person assisting an authorised officer, damages anything in the exercise or purported exercise of a function under this Act, the authorised officer must give written notice of the particulars of the damage to the person the authorised officer believes, on reasonable grounds, is the owner of the thing.

(3) If the damage happens at premises entered under this Act in the absence of the occupier, the notice may be given by leaving it, secured conspicuously, at the premises.

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99 Compensation for exercise of powers

(1) A person may claim compensation from the Territory if the person suffers loss or expense—

(a) in complying with a notice given to the person under section 72 (Direction to modify or remove water structure); or

(b) because of the exercise, or purported exercise, of a function under any of the following provisions by an authorised officer, a person assisting an authorised officer or someone else authorised by the authority:

(i) part 8 (Assessment of water resources);

(ii) section 77 (Action by authority if notice or direction contravened);

(iii) part 10 (Enforcement).

(2) Compensation may be claimed and ordered in a proceeding for—

(a) compensation brought in a court of competent jurisdiction; or

(b) an offence against this Act brought against the person making the claim for compensation.

(3) A court may order the payment of reasonable compensation for the loss or expense only if satisfied it is just to make the order in the circumstances of the particular case.

(4) A regulation may prescribe matters that may, must or must not be taken into account by the court in considering whether it is just to make the order.

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100 Incorporation of documents

A statutory instrument under this Act may apply, adopt or incorporate an instrument, as in force from time to time.

Note 1 The text of an applied, adopted or incorporated instrument, whether applied as in force from time to time or at a particular time, is taken to be a notifiable instrument (see Legislation Act s 47 (5) and (6)). However, that requirement does not apply if—

- section 102 is complied with; or
- the operation of the Legislation Act, s 47 (5) or (6) is otherwise disapplied (see that Act, s 47 (7)).

Note 2 A notifiable instrument must be notified under the Legislation Act.

Note 3 A reference to an instrument includes a reference to a provision of an instrument (see Legislation Act, s 14 (2)).

101 Inspection of incorporated documents

(1) This section applies to an incorporated document, or an amendment of, or replacement for, an incorporated document.

Note For the meaning of ***incorporated document***, see the dictionary.

(2) The authority must ensure that the document, amendment or replacement is made available for inspection free of charge to the public on business days at reasonable times at the office of the authority.

(3) In this section:

amendment, of an incorporated document—see section 102 (6).

replacement, for an incorporated document—see section 102 (6).

102 Notification of certain incorporated documents

(1) This section applies to—

(a) an incorporated document; or

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(b) an amendment of, or replacement for, an incorporated document.

Example of replacement document

a new edition of the incorporated document

Note 1 For the meaning of ***incorporated document***, see the dictionary.

Note 2 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(2) The authority may prepare a notice (an ***incorporated document notice***) for the incorporated document, amendment or replacement that contains the following information:

(a) for an incorporated document—details of the document, including its title, author and date of publication;

(b) for an amendment—the date of publication of the amendment (or of the document as amended) and a brief summary of the effect of the amendment;

(c) for a replacement—details of the replacement, including its title, author and date of publication;

(d) for an incorporated document or any amendment or replacement—

(i) a date of effect (no earlier than the day after the day of notification of the notice); and

(ii) details of how access to inspect the document, amendment or replacement may be obtained under section 101; and

(iii) details of how copies may be obtained, including an indication of whether there is a cost involved.

(3) An incorporated document notice is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

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(4) An incorporated document, and any amendment or replacement of an incorporated document, has no effect under this Act unless—

(a) an incorporated document notice is notified in relation to the document, amendment or replacement; or

(b) the document, amendment or replacement is notified under the Legislation Act, section 47 (6).

(5) The Legislation Act, section 47 (7) does not apply in relation to incorporated documents.

(6) In this section:

amendment, of an incorporated document, includes an amendment of a replacement for the incorporated document.

replacement, for an incorporated document, means—

(a) a document that replaces the incorporated document; or

(b) a document (an ***initial replacement***) that replaces a document mentioned in paragraph (a); or

(c) a document (a ***further replacement***) that replaces an initial replacement or any further replacement.

103 Evidentiary certificates

In a prosecution for an offence against this Act, a certificate signed by the authority that includes any of the following statements is evidence of the matters stated:

(a) a statement that, at a stated time or during a stated period, a stated person was or was not the holder of a stated licence;

(b) a statement that, at a stated time or during a stated period, a stated person was or was not the owner of stated land;

(c) a statement that a stated place is, or is not, a waterway or bore;

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(d) a statement that, at a stated time or during a stated period, there was or was not, on stated land, a channel or other means (including mechanical means) by which water could be taken;

(e) a statement that, at a stated time or during a stated period, there were or were not, at a stated place, works to increase ground water;

(f) a statement that, at a stated time or during a stated period, there was or was not, a water structure on stated land.

104 Criminal liability of executive officers

(1) An executive officer of a corporation commits an offence if—

(a) the corporation commits a relevant offence; and

(b) the officer was reckless about whether the relevant offence would be committed; and

(c) the officer was in a position to influence the conduct of the corporation in relation to the commission of the relevant offence; and

(d) the officer failed to take reasonable steps to prevent the commission of the relevant offence.

Maximum penalty: The maximum penalty that may be imposed for the commission of the relevant offence by an individual.

(2) In deciding whether the executive officer took (or failed to take) all reasonable steps to prevent the commission of the offence, a court must consider any action the officer took directed towards ensuring the following (to the extent that the action is relevant to the act or omission):

(a) that the corporation arranges regular professional assessments of the corporation's compliance with the provision to which the relevant offence relates;

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(b) that the corporation implements any appropriate recommendation arising from such an assessment;

(c) that the corporation's employees, agents and contractors have a reasonable knowledge and understanding of the requirement to comply with the provision to which the relevant offence relates;

(d) any action the officer took when the officer became aware that the relevant offence was, or might be, about to be committed.

(3) Subsection (2) does not limit the matters the court may consider.

(4) Subsection (1) does not apply if the corporation would have a defence to a prosecution for the relevant offence.

Note The defendant has an evidential burden in relation to the matters mentioned in s (4) (see Criminal Code, s 58).

(5) This section applies whether or not the corporation is prosecuted for, or convicted of, the relevant offence.

(6) In this section:

executive officer, of a corporation, means a person, by whatever name called and whether or not the person is a director of the corporation, who is concerned with, or takes part in, the corporation's management.

relevant offence means an offence against any of the following:

(a) section 77C (Offence—do waterway work without licence);

(b) section 77H (Offence—contravene notice prohibiting or restricting taking of water);

(c) section 77I (Offences—contravene directions).

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105 Self-incrimination etc

(1) This section applies if a person is required to give information or produce a document under this Act.

(2) The person can not rely on the common law privileges against self-incrimination and exposure to the imposition of a civil penalty to refuse to give the information or produce the document.

Note The Legislation Act, s 171 deals with client legal privilege.

(3) However, any information, document or other thing obtained, directly or indirectly, because of the giving of the information or producing of the document, is not admissible in evidence against the person in a criminal proceeding, other than a proceeding for—

(a) an offence in relation to the failure to give the information or produce the document; or

(b) any offence in relation to the falsity or the misleading nature of the information or document.

106 Nonpayment of fees

If a fee payable in relation to a water access entitlement or licence is not paid before the end of 30 days after the day it is payable, the authority may—

(a) suspend the entitlement or licence until the fee is paid; or

(b) cancel the entitlement or licence.

107 Determination of fees

(1) The Minister may determine fees for this Act.

Note The Legislation Act contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

(2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

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108 Approved forms

(1) The authority may approve forms for this Act.

(2) If the authority approves a form for a particular purpose, the approved form must be used for that purpose.

Note For other provisions about forms, see the Legislation Act, s 255.

(3) An approved form is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

109 Regulation-making power

(1) The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the Legislation Act.

(2) A regulation may apply, adopt or incorporate an instrument as in force from time to time.

Note 1 The text of an applied, adopted or incorporated instrument, whether applied as in force from time to time or as at a particular time, is taken to be a notifiable instrument if the operation of the Legislation Act, s 47 (5) or (6) is not disapplied (see s 47 (7)).

Note 2 A notifiable instrument must be notified under the Legislation Act.

Note 3 A reference to an instrument includes a reference to a provision of an instrument (see Legislation Act, s 14 (2)).

(3) A regulation may create offences and fix maximum penalties of not more than 10 penalty units for the offences.

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Part 13 Surviving allocations

110 Survival of allocations

A water allocation in force under the repealed Act immediately before the commencement day (a ***surviving allocation***) continues in force subject to this Act.

111 Surviving allocations—surrender generally

(1) A surviving allocation can not be transferred or amended but, subject to section 112 and section 113, may be surrendered to the authority at any time.

(2) If a person who holds a surviving allocation surrenders it to the authority, the person may request that a water access entitlement be granted to the person.

(3) On request under subsection (2), the authority must grant to the person—

(a) if the surrendered allocation was for surface water only—a water access entitlement for surface water; or

(b) if the surrendered allocation was for ground water only—a water access entitlement for ground water; or

(c) if the surrendered allocation was partly for surface water and partly for ground water (a ***mixed allocation***)—a water access entitlement for surface water and a water access entitlement for ground water.

(4) A water access entitlement granted to a person under subsection (3) must state—

(a) the person's name; and

(b) the amount of surface water or ground water that may be taken; and

(c) the water management area to which the amount relates; and

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(d) if the person does not have access to urban water supply and the surrendered allocation was for water for stock or domestic use—

(i) that the water is for stock or domestic use; and

(ii) the place where the water may be taken; and

(e) if no fee was paid under the repealed Act for the grant of the surrendered allocation—the place where the water may be taken; and

Note For removal of this statement, see s 25.

(f) anything else required under this Act to be stated in the water access entitlement.

(5) For subsection (4) (b), the amount stated must be—

(a) if a fee was paid under the repealed Act for the grant of the surrendered allocation—the percentage of the water available for taking in the water management area that is equivalent to the volume of the allocation (or, for a mixed allocation, the relevant part of the allocation); and

(b) if no fee was paid under the repealed Act for the grant of the surrendered allocation—the percentage of the water available for taking in the water management area that is equivalent to the lesser of—

(i) the volume of the allocation (or, for a mixed allocation, the relevant part of the allocation); and

(ii) the amount that, under the determination in force under section 18 (Amounts of water reasonable for uses), is a reasonable amount for the existing use.

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112 Surviving allocations—surrender by water utility

(1) This section applies to a surviving allocation held by a water utility.

(2) The utility may surrender the allocation to the authority and request a water access entitlement under section 111 before the end of 6 months after the commencement day.

(3) If the utility does not surrender the allocation to the authority before the end of that 6-month period, the allocation is taken to be surrendered to the authority and the authority must grant a water access entitlement to the utility under section 111.

113 Surviving allocations—surrender by holder no longer owner or occupier of land

(1) This section applies to the holder of a surviving allocation (other than a water utility) if the holder is not the owner or occupier of the land to which the allocation relates.

(2) The holder may surrender the allocation to the authority and request a water access entitlement under section 111 before the end of the later of—

(a) 6 months after the day the person ceases to be the owner or occupier of the land; and

(b) 6 months after the commencement day.

(3) If the holder does not surrender the allocation to the authority before the end of that 6-month period, the allocation is taken to be surrendered to the authority and the holder must not be granted a water access entitlement under section 111 in relation to the allocation.

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Schedule 1 Reviewable decisions

(see pt 11)

column 1 item	column 2 section	column 3 decision	column 4 entity
1	24	amend water access entitlement	holder of water access entitlement
2	26	refuse to approve transfer of whole or part of water access entitlement	holder of water access entitlement
3	30	refuse to issue licence to take water	applicant for licence
4	31	impose condition on licence to take water	applicant for licence
5	35	refuse to issue driller's licence	applicant for licence
6	36	impose condition on driller's licence	applicant for licence
7	39	refuse to issue bore work licence	applicant for licence
8	40	impose condition on bore work licence	applicant for licence
9	44	refuse to issue waterway work licence	applicant for licence
10	45	impose condition on waterway work licence	applicant for licence

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column 1 item	column 2 section	column 3 decision	column 4 entity
11	49	refuse to issue recharge licence	applicant for licence
12	50	impose condition on recharge licence	applicant for licence
13	53	refuse to renew licence	applicant for renewal
14	55	impose condition on, or amend existing condition of, licence	licence holder
15	62	take disciplinary action mentioned in s 61 (c), (d), (e) or (f)	holder of water access entitlement, water allocation or licence
16	73	give direction to take stated action to rectify effect of unauthorised activity	person to whom direction given
17	74	give direction to take stated action to prevent or rectify damage to bed or banks of waterway	person to whom direction given
18	75	give direction in relation to unlicensed taking of surface water	person to whom direction given
19	76	give direction in relation to bore	person to whom direction given

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Dictionary

(see s 3)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 For example, the Legislation Act, dict, pt 1, defines the following terms:

- ACAT
- director-general
- environment protection authority
- found guilty
- function
- home address
- infringement notice
- national capital authority
- national land
- public employee
- public servant
- reviewable decision notice.

aquifer means a geological formation or structure, or an artificial landfill, permeated or capable of being permeated (whether permanently or intermittently) with water.

authorised officer means an authorised officer under the *Environment Protection Act 1997*, section 14 (3).

authority means the environment protection authority.

bore means a bore, hole, well, excavation or other opening in the ground or an underground cavity (whether occurring naturally or having been artificially constructed or modified)—

(a) that is used, or is capable of being used, to intercept or collect ground water; or

(b) from which ground water is, or is capable of being, obtained or used; or

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(c) that is used, or is capable of being used, for the disposal of water or waste below the surface of the ground; or

(d) that extends into an aquifer.

bore work means any of the following:

(a) drilling, constructing, altering, plugging, backfilling or sealing off a bore;

(b) removing, replacing, altering, slotting or repairing the casing, lining or screen of a bore;

(c) deepening a bore (in the course of construction or otherwise).

bore work licence means a licence under section 39.

commencement day means the day this Act commences.

connected with an offence, for part 10 (Enforcement)—see section 78.

coordination group—see section 67A.

corresponding water access entitlement—see section 27.

disciplinary action—see section 61.

disciplinary notice—see section 62.

driller's licence means a licence under section 35.

engage in conduct means—

(a) do an act; or

(b) omit to do an act.

environmental flow guidelines means environmental flow guidelines under section 12.

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environmental record, of a person, means the person's environmental record both in the ACT and elsewhere so far as it relates to water, and includes any action taken in relation to the person under—

(a) this Act or the repealed Act; or

(b) a licence issued under this Act or the repealed Act; or

(c) a law of the Commonwealth, a State or another Territory that relates to water.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

flow, in relation to surface water and ground water, includes the discharge, release, escape or passage of the water.

ground, for disciplinary action—see section 60.

ground water—see section 9.

incorporated document means an instrument applied, adopted or incorporated by a statutory instrument under this Act.

land includes a building or structure on land.

land sublease—see the *Planning and Development Act 2007*, dictionary.

licence means a licence under this Act.

licence to take water means a licence under section 30.

occupier, of premises, for part 10 (Enforcement)—see section 78.

offence, for part 10 (Enforcement)—see section 78.

owner, of land, includes—

(a) the lessee of the land; or

(b) for land under a land sublease—the sublessee.

premises, for part 10 (Enforcement)—see section 78.

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recharge licence means a licence under section 49.

register means the register under section 66.

repealed Act means the *Water Resources Act 1998*.

Note A reference to a repealed Act is a reference to the Act as in force immediately before it was repealed (see Legislation Act, s 103).

reviewable decision, for part 11 (Notification and review of decisions)—see section 94.

stock or domestic use of water by a person means 1 or more of the following:

(a) use for the person, or the person's family or employees, for domestic purposes;

(b) use for drinking water for stock—

(i) not exceeding the number of stock normally depastured on the relevant land having regard to seasonal fluctuations in the carrying capacity of the land; and

(ii) not held in close concentration for a purpose other than grazing;

(c) use for irrigating a garden, not larger than 2 hectares, that is for domestic use and not for the sale, barter or exchange of goods produced in the garden.

surface water—see section 8.

surviving allocation—see section 110.

take water—see section 11.

urban residential property means any of the following, within the meaning of the Territory plan, that has access to urban water supply:

(a) single dwelling housing;

(b) multi-unit housing;

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(c) a boarding house;

(d) a guest house.

urban water supply means water supplied by a water utility, other than treated sewage.

water means surface water or ground water, and includes water that contains impurities.

water access entitlement—see section 19.

water management areas—see section 16.

water structure—see section 41.

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

waterway—see section 10.

waterway work—see section 41.

waterway work licence means a licence under section 44.

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Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

A = Act
AF = Approved form
am = amended
amdt = amendment
AR = Assembly resolution
ch = chapter
CN = Commencement notice
def = definition
DI = Disallowable instrument
dict = dictionary
disallowed = disallowed by the Legislative Assembly
div = division
exp = expires/expired
Gaz = gazette
hdg = heading
IA = Interpretation Act 1967
ins = inserted/added
LA = Legislation Act 2001
LR = legislation register
LRA = Legislation (Republication) Act 1996
mod = modified/modification
NI = Notifiable instrument
o = order
om = omitted/repealed
ord = ordinance
orig = original
par = paragraph/subparagraph
pres = present
prev = previous
(prev...) = previously
pt = part
r = rule/subrule
reloc = relocated
renum = renumbered
R[X] = Republication No
RI = reissue
s = section/subsection
sch = schedule
sdiv = subdivision
SL = Subordinate law
sub = substituted
<u>underlining</u> = whole or part not commenced or to be expired

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3 Legislation history

Water Resources Act 2007 A2007-19

notified LR 20 June 2007
s 1, s 2 commenced 20 June 2007 (LA s 75 (1))
remainder commenced 1 August 2007 (s 2 and CN2007-8)

as amended by

Planning and Development (Consequential Amendments) Act 2007 A2007-25 sch 1 pt 1.36

notified LR 13 September 2007
s 1, s 2 commenced 13 September 2007 (LA s 75 (1))
sch 1 pt 1.36 commenced 31 March 2008 (s 2 and see Planning and Development Act 2007 A2007-24, s 2 and CN2008-1)

ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 (No 2) A2008-37 sch 1 pt 1.108

notified LR 4 September 2008
s 1, s 2 commenced 4 September 2008 (LA s 75 (1))
sch 1 pt 1.108 commenced 2 February 2009 (s 2 (1) and see ACT Civil and Administrative Tribunal Act 2008 A2008-35, s 2 (1) and CN2009-2)

Statute Law Amendment Act 2009 A2009-20 sch 3 pt 3.79

notified LR 1 September 2009
s 1, s 2 commenced 1 September 2009 (LA s 75 (1))
sch 3 pt 3.79 commenced 22 September 2009 (s 2)

Statute Law Amendment Act 2009 (No 2) A2009-49 sch 3 pt 3.85

notified LR 26 November 2009
s 1, s 2 commenced 26 November 2009 (LA s 75 (1))
sch 3 pt 3.85 commenced 17 December 2009 (s 2)

Water Resources Amendment Act 2010 A2010-31

notified LR 1 September 2010
s 1, s 2 commenced 1 September 2010 (LA s 75 (1))
s 4 commenced 1 March 2011 (s 2 and LA s 79)
remainder commenced 18 October 2010 (s 2 and CN2010-10)

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Statute Law Amendment Act 2012 A2012-21 sch 3 pt 3.56

notified LR 22 May 2012
s 1, s 2 commenced 22 May 2012 (LA s 75 (1))
sch 3 pt 3.56 commenced 5 June 2012 (s 2 (2))

Directors Liability Legislation Amendment Act 2013 A2013-4 sch 1 pt 1.12

notified LR 21 February 2013
s 1, s 2 commenced 21 February 2013 (LA s 75 (1))
sch 1 pt 1.12 commenced 22 February 2013 (s 2)

Planning, Building and Environment Legislation Amendment Act 2013 A2013-15 pt 11

notified LR 21 May 2013
s 1, s 2 commenced 21 May 2013 (LA s 75 (1))
pt 11 commenced 22 May 2013 (s 2)

Statute Law Amendment Act 2013 A2013-19 sch 3 pt 3.53

notified LR 24 May 2013
s 1, s 2 commenced 24 May 2013 (LA s 75 (1))
sch 3 pt 3.53 commenced 14 June 2013 (s 2)

Water Resources Amendment Act 2013 A2013-27

notified LR 21 August 2013
s 1, s 2 commenced 21 August 2013 (LA s 75 (1))
remainder commenced 22 August 2013 (s 2)

Planning and Development (University of Canberra and Other Leases) Legislation Amendment Act 2015 A2015-19 pt 25

notified LR 11 June 2015
s 1, s 2 commenced 11 June 2015 (LA s 75 (1))
pt 25 commenced 1 July 2015 (s 2 and CN2015-9)

Water Resources (Catchment Management Coordination Group) Amendment Act 2015 A2015-25 pt 2

notified LR 18 August 2015
s 1, s 2 commenced 18 August 2015 (LA s 75 (1))
pt 2 commenced 19 August 2015 (s 2)

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Red Tape Reduction Legislation Amendment Act 2015 A2015-33 sch 1 pt 1.75

notified LR 30 September 2015
s 1, s 2 commenced 30 September 2015 (LA s 75 (1))
sch 1 pt 1.75 commenced 14 October 2015 (s 2)

Emergencies Amendment Act 2016 A2016-33 sch 1 pt 1.23

notified LR 20 June 2016
s 1, s 2 commenced 20 June 2016 (LA s 75 (1))
sch 1 pt 1.23 commenced 21 June 2016 (s 2)

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4 Amendment history

Commencement

s 2	om LA s 89 (4)

Application of Act to national land and Googong Dam Area

s 7A	ins A2010-31 s 4

Environmental flow guidelines—consultation

s 14	am A2009-20 amdt 3.227; A2013-19 amdt 3.508; A2015-33 amdt 1.259; ss renum R16 LA

Water access entitlement—special provision for certain entitlements based on surviving allocations etc

s 25	am A2013-15 s 21

Water access entitlement—transfer

s 26	am A2010-31 s 5

Licence to take water—requirement

s 28	am A2007-25 amdt 1.208 (1)-(5) reloc as s 77A (1)-(5) am A2010-31 s 7, s 8; ss renum R7 LA; A2012-21 amdt 3.215, amdt 3.216; A2016-33 amdt 1.53, amdt 1.54

Licence to take water—where water may be taken

s 32	am A2013-27 s 4

Driller's licence—requirement

s 33	**orig s 33** reloc as s 77B (1) **pres s 33** ins A2010-31 s 11

Bore work licence—requirement

s 37	(1), (2) reloc as s 77B (2), (3) am A2010-31 s 13; ss renum R7 LA

Bore work licence—decision on application

s 39	am A2010-31 ss 14-16

Definitions––Act

s 41 hdg	sub A2013-19 amdt 3.509
s 41	am A2013-19 amdt 3.509

Waterway work licence—requirement

s 42	(1) reloc as s 77C (1) am A2010-31 s 18, s 19

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Recharge licence—requirement
s 47 **orig s 47**
reloc as s 77D
pres s 47
ins A2010-31 s 22

Offence—failing to produce licence
s 57 reloc as s 77E

Licence conditions—requirement
s 58 **orig s 58**
reloc as s 77F
pres s 58
ins A2010-31 s 25

Offences—contravening certain conditions of licence to take water
s 59 reloc as s 77G

ACT and region catchment management coordination group
pt 7A hdg ins A2015-25 s 4

Coordination group—establishment
s 67A ins A2015-25 s 4

Coordination group—functions
s 67B ins A2015-25 s 4

Minister to consider coordination group advice
s 67C ins A2015-25 s 4

Annual report by coordination group
s 67D ins A2015-25 s 4

Coordination group—membership
s 67E ins A2015-25 s 4

Ending of appointments
s 67F ins A2015-25 s 4

Coordination group—general procedure
s 67G ins A2015-25 s 4

Coordination group—quorum at meetings
s 67H ins A2015-25 s 4

Voting at coordination group meetings
s 67I ins A2015-25 s 4

Reimbursement of expenses for coordination group members
s 67J ins A2015-25 s 4

Notice prohibiting or restricting taking of water
s 71 am A2010-31 s 27; A2013-19 amdt 3.510

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Direction to modify or remove water structure

s 72	am A2010-31 s 28

Direction to rectify effect of unauthorised activity etc

s 73	am A2010-31 s 29, s 30

Direction to prevent or rectify damage to bed or bank of waterway

s 74	am A2010-31 s 31, s 32

Directions in relation to unlicensed taking of surface water

s 75	am A2010-31 s 33

Directions in relation to bores

s 76	am A2010-31 s 34, s 35

Offences

pt 9A hdg	ins A2010-31 s 36

Offences—take water without licence

s 77A hdg	ins A2010-31 s 36
s 77A	(1)-(5) reloc from s 28 (1)-(5) A2010-31 s 6 am A2010-31 s 37

Offences—do bore work without licence

s 77B hdg	prev s 33 hdg sub A2010-31 s 9
s 77B	(1) reloc from s 33 A2010-31 s 10 (2), (3) reloc from s 37 (1), (2) A2010-31 s 12 am A2010-31 s 38; A2013-27 s 5, s 6

Offence—do waterway work without licence

s 77C hdg	ins A2010-31 s 39
s 77C	(1) reloc from s 42 (1) A2010-31 s 17 am A2010-31 s 40; A2013-27 s 7; ss renum R12 LA

Offence—do work without recharge licence

s 77D hdg	prev s 47 hdg sub A2010-31 s 20
s 77D	reloc from s 47 A2010-31 s 21

Offence—failing to produce licence

s 77E	reloc from s 57 A2010-31 s 23

Offence—contravening licence conditions

s 77F	reloc from s 58 A2010-31 s 24 am A2013-27 s 8

Offences—contravening certain conditions of licence to take water

s 77G	reloc from s 59 A2010-31 s 26

Offence—contravene notice prohibiting or restricting taking of water

s 77H	ins A2010-31 s 41

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Offences—contravene directions
s 77I ins A2010-31 s 41

Offences—water meter tampering
s 77J ins A2013-27 s 9

Power to require name and address
s 84 am A2009-49 amdt 3.214

Notification and review of decisions
pt 11 hdg sub A2008-37 amdt 1.562

Meaning of *reviewable decision*—pt 11
s 94 sub A2008-37 amdt 1.562

Reviewable decision notices
s 95 sub A2008-37 amdt 1.562

Applications for review
s 96 sub A2008-37 amdt 1.562

Incorporation of documents
s 100 am A2013-19 amdt 3.511

Notification of certain incorporated documents
s 102 am A2013-19 amdt 3.512

Criminal liability of executive officers
s 104 sub A2013-4 amdt 1.15

Regulation-making power
s 109 am A2013-19 amdt 3.513

Transitional
pt 20 hdg exp 1 August 2008 (s 206)

Environmental flow guidelines
s 200 exp 1 August 2008 (s 206 (LA s 88 declaration applies))

Existing licences and permits
s 201 exp 1 August 2008 (s 206 (LA s 88 declaration applies))

Water access entitlement for certain existing licence holders
s 202 exp 1 August 2008 (s 206)

Information on register
s 203 exp 1 August 2008 (s 206 (LA s 88 declaration applies))

References to Planning and Development Act
s 204 sub A2007-25 amdt 1.209
exp 1 August 2008 (s 206)

Transitional regulations
s 205 exp 1 August 2008 (s 206)

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Expiry—pt 20
s 206 exp 1 August 2008 (s 206)

Repeals and consequential amendments
pt 21 hdg om LA s 89 (3)

Legislation repealed
s 207 om LA s 89 (3)

Administrative Decisions (Judicial Review) Act 1989
Schedule 1, item 18
s 208 om LA s 89 (3)

Gungahlin Drive Extension Authorisation Regulation 2004
Section 4 (e)
s 209 om LA s 89 (3)

Land (Planning and Environment) Regulation 1992
Schedule 1, item 3 (d)
s 210 om LA s 89 (3)

Utilities Act 2000
Section 20 (2) (l)
s 211 om LA s 89 (3)

Reviewable decisions
sch 1 ins A2008-37 amdt 1.563
am A2009-20 amdt 3.228; items renum R5 LA

Dictionary
dict am A2008-37 amdt 1.563; A2009-20 amdt 3.229; A2009-49 amdt 3.215; A2010-31 s 42; A2013-19 amdt 3.514; A2015-25 s 5; A2015-33 amdt 1.260
def ***coordination group*** ins A2015-25 s 6
def ***land sublease*** ins A2015-19 s 152
def ***owner*** sub A2015-19 s 153
def ***reviewable decision*** sub A2008-37 amdt. 1.565

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5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R1 1 Aug 2007	1 Aug 2007– 30 Mar 2008	not amended	new Act
R2 31 Mar 2008	31 Mar 2008– 1 Aug 2008	A2007-25	amendments by A2007-25
R3 2 Aug 2008	2 Aug 2008– 1 Feb 2009	A2007-25	commenced expiry
R4 2 Feb 2009	2 Feb 2009– 21 Sept 2009	A2008-37	amendments by A2008-37
R5 22 Sept 2009	22 Sept 2009– 16 Dec 2009	A2009-20	amendments by A2009-20
R6 17 Dec 2009	17 Dec 2009– 17 Oct 2010	A2009-49	amendments by A2009-49
R7 18 Oct 2010	18 Oct 2010– 28 Feb 2011	A2010-31	amendments by A2010-31
R8 1 Mar 2011	1 Mar 2011– 4 June 2012	A2010-31	amendments by A2010-31
R9 5 June 2012	5 June 2012– 21 Feb 2013	A2012-21	amendments by A2012-21
R10 22 Feb 2013	22 Feb 2013– 21 May 2013	A2013-4	amendments by A2013-4
R11 22 May 2013	22 May 2013– 13 June 2013	A2013-15	amendments by A2013-15
R12 14 June 2013	14 June 2013– 21 Aug 2013	A2013-19	amendments by A2013-19

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5 Earlier republications

Republication No and date	Effective	Last amendment made by	Republication for
R13 22 Aug 2013	22 Aug 2013– 30 June 2015	A2013-27	amendments by A2013-27
R14 1 July 2015	1 July 2015– 18 Aug 2015	A2015-19	amendments by A2015-19
R15 19 Aug 2015	19 Aug 2015– 13 Oct 2015	A2015-25	amendments by A2015-25
R16 14 Oct 2015	14 Oct 2015– 20 June 2016	A2015-33	amendments by A2015-33

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