



Australian Capital Territory

Utilities (Water Conservation) Regulation 2006

Subordinate Law SL2006-9

The Australian Capital Territory Executive makes the following regulation under the *Utilities Act 2000*.

Dated 29 March 2006.

JON STANHOPE
Minister

SIMON CORBELL
Minister



Australian Capital Territory

Utilities (Water Conservation) Regulation 2006

Subordinate Law SL2006-9

made under the

Utilities Act 2000

Contents

	Page
Part 1	
 Preliminary	
1 Name of regulation	1
2 Commencement	1
3 Dictionary	1
4 Notes	2
Part 2	
 Water conservation measures	
5 Water conservation measures—approval	3
6 Additional notice of water conservation measures	4

J2006-17

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Contents

		Page
7	Contravening approved water conservation measures	4
8	Temporary water restrictions—effect on approved water conservation measures	4
Part 3	Temporary water restrictions	
9	Temporary water restriction scheme—approval	5
10	Scope of temporary water restriction scheme	5
11	Public inspection of scheme documents	6
12	Imposition of temporary water restrictions	6
13	Additional notification of temporary water restrictions	7
14	Contravening temporary water restrictions	7
Part 4	Enforcement—conservation measures and temporary restrictions	
15	Application—pt 4	8
16	Directions to comply with conservation measure or temporary restriction	8
17	Contravening directions to comply with conservation measure or temporary restriction	9
18	Power to enter premises—contravention of conservation measure or temporary restriction	9
19	Ending unauthorised use of water	10
Part 5	Preventing waste of water	
20	Application—pt 5	12
21	Meaning of <i>waste</i> —pt 5	12
22	Directions to end waste of water	12
23	Contravening directions to end waste of water	13
24	Power to enter premises—waste of water	13
25	Ending waste of water	14
Part 6	Miscellaneous	
26	Production of identity card	16
27	Damage etc to be minimised	16
28	Legislation repealed	17

Dictionary

Page
18

Part 1 Preliminary

1 Name of regulation

This regulation is the *Utilities (Water Conservation) Regulation 2006*.

2 Commencement

This regulation commences on a day fixed by the Minister by written notice.

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

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

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

3 Dictionary

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

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

For example, the signpost definition ‘*approved water conservation measures*—see section 5.’ means that the term ‘approved water conservation measure’ is defined in that section.

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

4 Notes

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

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

Part 2 Water conservation measures

5 Water conservation measures—approval

- (1) The Minister may approve measures (*approved water conservation measures*) developed by a utility if satisfied that—
 - (a) the measures are necessary or desirable to—
 - (i) conserve the water resources of the utility to meet the reasonably foreseeable needs of consumers; and
 - (ii) ensure that water supplied by the utility is used more efficiently; and
 - (b) the measures adequately protect the interests of consumers; and
 - (c) the utility developed the measures in consultation with the environment protection authority.
- (2) An approval is a disallowable instrument.

Note 1 A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

Note 2 The power to make a statutory instrument (including a disallowable 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).
- (3) An approved water conservation measure may include provision for the utility to exempt a consumer from the measure if compliance with it would cause the consumer serious detriment.

6 Additional notice of water conservation measures

- (1) The utility that developed approved water conservation measures—
 - (a) must make copies of a document or documents setting out the measures available for inspection by members of the public—
 - (i) during ordinary office hours at the head office of the utility; and
 - (ii) on the utility’s web site on the internet; and
 - (b) may publish details of the measures in a daily newspaper.
- (2) The utility may also make the document or documents available for inspection at any other place decided by the utility.

7 Contravening approved water conservation measures

- (1) The occupier of premises commits an offence if water is used at the premises in contravention of an approved water conservation measure.
Maximum penalty: 10 penalty units.
- (2) An offence against this section is a strict liability offence.

8 Temporary water restrictions—effect on approved water conservation measures

An approved water conservation measure has no effect to the extent that it is inconsistent with a temporary water restriction.

Part 3 Temporary water restrictions

9 Temporary water restriction scheme—approval

- (1) The Minister may approve a scheme developed by a utility for temporary restrictions on the use of water supplied by the utility if satisfied that—
 - (a) it may be necessary or desirable for the utility to be able to impose restrictions under the scheme to avoid or reduce the effect of a shortage (including an anticipated shortage) in water needed for consumers; and
 - (b) having regard to the shortage, the approved water conservation measures are not likely to ensure an efficient, reliable and sustainable supply of water to meet the needs of consumers; and
 - (c) the scheme adequately protects the interests of consumers; and
 - (d) the utility developed the scheme in consultation with the environment protection authority.
- (2) An approval is a disallowable instrument.

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

10 Scope of temporary water restriction scheme

- (1) The Minister may approve a temporary water restriction scheme under section 9 only if the scheme includes provision in relation to the following:
 - (a) a range of temporary restrictions to be imposed in stages on the use of water by consumers;

- (b) the imposition of each stage of temporary restrictions by reference to 1 or more of the following:
 - (i) the source, capacity or quality of stored water available to the utility for water services;
 - (ii) the rate of consumption of water supplied by the utility;
 - (iii) any reduction in water consumption to be achieved; and
 - (c) the operation and revocation of each stage of temporary restrictions, whether by reference to a period or circumstances.
- (2) An approved temporary water restriction scheme may include provision for the utility to exempt a consumer from a temporary water restriction if compliance with the restriction would cause the consumer serious detriment.
 - (3) This section does not limit the scope of an approved temporary water restriction scheme.

11 Public inspection of scheme documents

- (1) The utility that developed an approved temporary water restriction scheme must make copies of a document or documents setting out the scheme available for inspection by members of the public—
 - (a) during ordinary office hours at the head office of the utility; and
 - (b) on the utility's web site on the internet.
- (2) The utility may also make the document or documents available for inspection at any other place decided by the utility.

12 Imposition of temporary water restrictions

- (1) A utility may impose restrictions on the use of water by consumers by declaring that temporary water restrictions under a stage of an approved temporary water restriction scheme are in force.

- (2) The imposition of temporary water restrictions under subsection (1) must be in accordance with the approved water restriction scheme.
- (3) To remove any doubt, a utility may make more than 1 declaration in relation to the same stage of temporary water restrictions.
- (4) Before making a declaration, the utility must—
 - (a) consult the environment protection authority about the proposed declaration; and
 - (b) tell the Minister of its intention to make the declaration.
- (5) A declaration is a notifiable instrument.

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

Note 2 The power to make a declaration includes the power to revoke the declaration (see Legislation Act, s 46).

13 Additional notification of temporary water restrictions

The utility that makes a declaration under section 12 must also publish the declaration and details of the temporary water restrictions to which it applies—

- (a) in a daily newspaper; and
- (b) on the utility's web site on the internet.

14 Contravening temporary water restrictions

- (1) The occupier of premises commits an offence if water is used at the premises in contravention of a temporary water restriction.

Maximum penalty: 10 penalty units.

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

- (5) The direction may also be given—
- (a) by leaving it in the letterbox at the premises; or
 - (b) by securing it in a conspicuous place at the premises.

Note For other ways in which the direction may be given, see the Legislation Act, pt 19.5.

17 Contravening directions to comply with conservation measure or temporary restriction

- (1) A person commits an offence if—
- (a) an authorised person for a utility gives the person a direction under section 16; and
 - (b) the person contravenes the direction.

Maximum penalty: 10 penalty units.

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

18 Power to enter premises—contravention of conservation measure or temporary restriction

- (1) This section applies if an authorised person for a utility believes, on reasonable grounds, that water has been used, or is being used, at premises in contravention of an approved water conservation measure or a temporary water restriction.
- (2) For this section, an authorised person for a utility may enter any part of the premises (other than a part used for residential purposes) at any reasonable time, and—
- (a) inspect the premises and anything at the premises; and
 - (b) take action under section 19 (Ending unauthorised use of water).
- (3) For subsection (2), the authorised person may enter the premises with any necessary and reasonable assistance and force.

19 Ending unauthorised use of water

- (1) An authorised person for a utility may take action under this section if the authorised person believes, on reasonable grounds, that a person is contravening a direction under section 16 (Directions to comply with conservation measure or temporary restriction).
 - (2) An authorised person for a utility may also take action under this section if the authorised person believes, on reasonable grounds, that—
 - (a) water is being used at premises in contravention of an approved water conservation measure or a temporary water restriction; and
 - (b) a direction under section 16 is unlikely to end the contravention because, for example—
 - (i) the premises are unoccupied (whether temporarily or permanently); or
 - (ii) after making reasonable inquiries, the authorised person cannot find the occupier of the premises; or
 - (iii) the occupier is unlikely to comply with the direction; and
 - (c) the contravention is likely to continue unless action is taken under this section.
- Note* An example is part of the regulation, 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).
- (3) The authorised person may do any of the following:
 - (a) adjust a tap or other water outlet to end the contravention;
 - (b) if equipment is used to control the use of water at the premises—adjust the operation of the equipment so that water is used only in accordance with the water conservation measures or temporary water restrictions;

- (c) if the authorised person cannot make the adjustment mentioned in paragraph (b)—stop the supply of water to the equipment.
- (4) If action under subsection (3) (a) or (c) is impracticable, the authorised person may stop the supply of water to the premises from the water network to prevent the contravention.
- (5) The authorised person must give the occupier of the premises a written notice stating particulars of the action taken under this section.
- (6) It is sufficient if the notice is addressed to ‘the occupier’ of the premises.
- (7) The notice may also be given—
- (a) by leaving it in the letterbox at the premises; or
 - (b) by securing it in a conspicuous place at the premises.

Note For other ways in which the direction may be given, see the Legislation Act, pt 19.5.

Part 5 Preventing waste of water

20 Application—pt 5

An authorised person for a utility may exercise a function under this part only in relation to water supplied by the utility at premises to which the utility provides water services.

21 Meaning of *waste*—pt 5

In this part:

waste, in relation to water, means the escape of water from defective equipment connected directly or indirectly to the utility's water network.

Examples of equipment

- 1 tap
- 2 timer
- 3 hose

Note An example is part of the regulation, 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).

22 Directions to end waste of water

- (1) This section applies if an authorised person for a utility believes, on reasonable grounds, that water is being wasted at premises and that, unless action is taken under this part, the waste is likely to continue.
- (2) The authorised person may give the occupier of the premises a written direction to take action stated in the direction to end the waste of water.
- (3) It is sufficient if the direction is addressed to 'the occupier' of the premises.

- (4) The direction may state a period in which the person must comply with the direction.
- (5) The direction may also be given—
 - (a) by leaving it in the letterbox at the premises; or
 - (b) by securing it in a conspicuous place at the premises.

Note For other ways in which the direction may be given, see the Legislation Act, pt 19.5.

23 Contravening directions to end waste of water

- (1) A person commits an offence if—
 - (a) an authorised person for a utility gives the person a direction under section 22; and
 - (b) the person contravenes the direction.

Maximum penalty: 10 penalty units.

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

24 Power to enter premises—waste of water

- (1) This section applies if an authorised person for a utility believes, on reasonable grounds, that water is being wasted at premises and that, without action under this part, the waste is likely to continue
- (2) For this section, an authorised person for a utility may enter any part of the premises (other than a part used for residential purposes) at any reasonable time, and—
 - (a) inspect the premises and anything at the premises; and
 - (b) take action under section 25 (Ending waste of water).
- (3) For subsection (2), the authorised person may enter the premises with any necessary and reasonable assistance and force.

25 Ending waste of water

- (1) An authorised person for a utility may take action under this section if the authorised person believes, on reasonable grounds, that a person is contravening a direction under section 23 (Contravening directions to end waste of water).
- (2) An authorised person for a utility may also take action under this section if the authorised person believes, on reasonable grounds, that—
 - (a) water is being wasted at premises; and
 - (b) a direction under section 23 is unlikely to end the waste because, for example—
 - (i) the premises are unoccupied (whether temporarily or permanently); or
 - (ii) after making reasonable inquiries, the authorised person cannot find the occupier of the premises; or
 - (iii) the occupier is unlikely to comply with the direction; and
 - (c) the waste is likely to continue unless action is taken under this section.

Note An example is part of the regulation, 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).

- (3) The authorised person may do any of the following:
 - (a) adjust a tap or other water outlet to end the waste;
 - (b) if equipment is used to control the use, or permit the flow, of water at the premises—adjust the operation of the equipment to end the waste;
 - (c) if the authorised person cannot make the adjustment mentioned in paragraph (b)—stop the supply of water to the equipment.

- (4) If action under subsection (3) (a) or (c) is impracticable, the authorised person may stop the supply of water to the premises from the water network to end the waste of water.
- (5) The authorised person must give the occupier of the premises a written notice stating particulars of the action taken under this section.
- (6) It is sufficient if the notice is addressed to ‘the occupier’ of the premises.
- (7) The notice may also be given—
 - (a) by leaving it in the letterbox at the premises; or
 - (b) by securing it in a conspicuous place at the premises.

Note For other ways in which the direction may be given, see the Legislation Act, pt 19.5.

Part 6 Miscellaneous

26 Production of identity card

An authorised person for a utility must not remain at premises entered under part 2 (Water conservation measures) or part 3 (Temporary water restrictions) if, when asked by the occupier, the authorised person does not produce his or her identity card for inspection by the occupier.

27 Damage etc to be minimised

- (1) In the exercise, or purported exercise, of a function under this regulation, an authorised person for a utility must take reasonable steps to ensure that the authorised person, and anyone helping the authorised person, causes as little inconvenience, detriment and damage as is practicable.
- (2) If an authorised person for a utility, or anyone helping an authorised person, damages anything in the exercise, or purported exercise, of a function under this regulation, the authorised person must give written notice of the damage to the person whom the authorised person believes is the owner of the thing.
- (3) The notice must—
 - (a) include particulars of the damage; and
 - (b) identify the authorised person for the utility, and the utility; and
 - (c) include details for contacting the utility about the damage.
- (4) It is sufficient if the notice is addressed to ‘the occupier’ of the premises where the damage happened.

- (5) The notice may also be given—
- (a) by leaving it in the letterbox at the premises where the damage happened; or
 - (b) by securing it in a conspicuous place at those premises.

Note For other ways in which the direction may be given, see the Legislation Act, pt 19.5.

28 Legislation repealed

- (1) The *Utilities (Water Restrictions) Regulation 2002* SL2002-33 are repealed.
- (2) The following instruments are repealed:
 - *Utilities (Water Restrictions) Declaration 2006 (No 1)* NI2006-19
 - *Utilities (Water Restrictions Scheme) Approval 2005 (No 1)* DI2005-239.

Dictionary

(see s 3)

Note 1 The Legislation Act contains definitions and other provisions relevant to this regulation.

Note 2 In particular, the Legislation Act, dict, pt 1, defines the following terms:

- contravene
- environment protection authority
- Minister.

Note 3 Terms used in this regulation have the same meaning that they have in the *Utilities Act 2000* (see Legislation Act, s 148.) For example, the following terms are defined in the *Utilities Act 2000*, dict:

- authorised person
- daily newspaper
- premises.

approved temporary water restriction scheme means a scheme approved under section 9.

approved water conservation measures—see section 5.

at premises includes in and on the premises.

temporary water restriction means a water restriction imposed under section 12.

utility means a water supplier.

waste, for part 5 (Preventing waste of water)—see section 21.

Endnotes

1 Notification

Notified under the Legislation Act on 30 March 2006.

2 Republications of amended laws

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

© Australian Capital Territory 2006