



Australian Capital Territory

# **Water and Sewerage Act 2000 No 68**

**Republication No 6**

**Effective: 9 October 2003 - 8 April 2004**

Republication date: 9 October 2003

Last amendment made by A2003-41

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Water and Sewerage Act 2000* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 9 October 2003. It also includes any amendment, repeal or expiry affecting the republished law to 9 October 2003.

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](http://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 or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### 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 *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

# Water and Sewerage Act 2000

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Australian Capital Territory

## Water and Sewerage Act 2000

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An Act to make provision in relation to the supply of plumbing or sanitary drainage services

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## Part 1 Preliminary

### 1 Name of Act

This Act is the *Water and Sewerage Act 2000*.

### 2 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 words and expressions used in this Act and the regulations, and includes references (*signpost definitions*) to other words and expressions defined elsewhere in this Act, the regulations or in other legislation.

For example, the signpost definition '*sewerage network*—see the *Utilities Act 2000*, section 14.' means the expression 'sewerage network' is defined in the dictionary to the Act and the definition applies to this Act.

*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 2001*, s 155 and s 156 (1)).

### 3 Interpretation

An expression used in this Act that is used in Australian Standard 3500 has the same meaning as in that standard.

### 4 Notes

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

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



## **Part 2**                      **Plan approvals**

### **Division 2.1**              **Certifiers**

#### **5**      **Appointment of certifiers**

- (1) The owner of premises on which it is proposed to do plumbing or sanitary drainage work must appoint a certifier in relation to the work.

*Note* For the making of appointments, see Legislation Act, div 19.3.

- (2) Subsection (1) does not apply if—
- (a) the structure in relation to which the work is to be done is a single residential building; or
  - (b) the work is on a pipe connected to a property service less than 50mm in diameter.
- (3) A certifier's appointment ends if the certifier ceases to be entitled to be appointed as a certifier in relation to the relevant work.

*Note 1* A person's power to make an appointment includes the power to end the appointment (see Legislation Act, s 208).

*Note 2* A person's appointment also ends if the person resigns (see Legislation Act, s 210).

- (4) The Legislation Act, section 209 (Power of appointment includes power to make acting appointment) does not apply to the appointment of a certifier under this section.

#### **6**      **Prohibition against contracting out**

A provision in a contract or agreement that purports to limit or modify the operation of this Act in relation to a certifier has no effect.

## Division 2.2 Issue of plan approvals

### 7 Application

The owner of premises may apply to a certifier for approval of a plan in relation to plumbing or sanitary drainage work.

### 8 Issue of plan approvals

- (1) A certifier must not approve a plan in relation to plumbing or sanitary drainage work unless the following approvals have been obtained:
  - (a) approval from the responsible utility—
    - (i) if non-domestic waste is to be disposed of—for the disposal of the waste to the sewerage network and the manner of disposal; or
    - (ii) if an increase in water demand or sewer load is expected—for the increase; or
    - (iii) if a point of connection to the sewerage network or the water network is to be changed or removed—for the change or removal; or
    - (iv) if a new point of connection to the sewerage network or the water network is required—for the point; or
    - (v) if a new fire service is proposed—for the proposal; or
    - (vi) if surface water or stormwater is to be discharged to the sewerage network—for the discharge and manner of discharge; or
    - (vii) if a water pumping appliance or sewage pumping appliance is to be connected to the water network or the sewerage network—for the connection and manner of connection;

- (b) if radioactive materials are to be disposed of into the sewerage network—approval from the responsible utility and the chief health officer for the disposal and manner of disposal.
- (2) A certifier must not issue a plan approval unless—
  - (a) the application is in accordance with section 7 (Application); and
  - (b) the applicant has obtained the approvals mentioned in subsection (1); and
  - (c) the requirements of this Act have otherwise been complied with; and
  - (d) the proposed plumbing or sanitary drainage work complies with Australian Standard 3500.
- (3) A certifier who issues a plan approval must give a copy of the approval and the relevant plans—
  - (a) as soon as practicable, to the applicant; and
  - (b) within 7 days, to the chief executive.

## **9 Amendment of approved plans**

- (1) The owner of premises to which a plan approved by a certifier relates may apply to a certifier for approval of an amendment of the plan.
- (2) The certifier—
  - (a) must refuse the application if satisfied that the proposed amendment requires reconsideration of the plan approval; or
  - (b) may approve the amendment and amend the plan accordingly if—
    - (i) satisfied that reconsideration of the plan approval is not required; and

- (ii) the requirements of section 8 (2), other than paragraph (a), have been complied with in relation to the amendment.
- (3) A certifier who approves an amendment must keep all documents relating to the amendment for 12 months.
- (4) In this section, a reference to a *plan approval* includes a reference to an approval that has been amended in accordance with this section.

#### **10 Notification of cessation of appointment of certifier**

A certifier who has received an application for a plan approval under section 7 (Application) must, if his or her appointment in relation to the work ends, within 7 days after the appointment ends, notify the chief executive, in writing.

Maximum penalty: 1 penalty unit.

## Part 3                      Offences

### 11      **Sprinkler fitting**

- (1) A person must not install or fit a sprinkler system or any part of a fire sprinkler service unless the person holds a water supply plumber's licence, journeyman plumber's licence or sprinkler fitter's licence.

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

- (2) A person must not install or fit a sprinkler system or any part of a fire sprinkler service unless the person has given not less than 2 business days written notice to the chief executive of the intention to start the work.

Maximum penalty: 20 penalty units.

### 12      **Sanitary plumbers to be licensed**

- (1) A person must not do any sanitary plumbing work unless the person holds a sanitary plumber's licence.

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

- (2) Subsection (1) does not apply if—

- (a) the person holds a water supply plumber's licence and does water supply plumbing necessary for the sanitary plumbing work; and
- (b) the person holds a journeyman plumber's licence and does sanitary plumbing work under the general supervision of the holder of a sanitary plumber's licence.

**13 House drainage work**

A person must not lay or repair any drain unless—

- (a) the person holds an advanced sanitary drainer's licence; or
- (b) the person holds an operative drainer's licence and does the work under the general supervision of the holder of an advanced sanitary drainer's licence.

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

**14 Water supply plumbers to be licensed**

A person must not connect any service pipe to a water network, or (other than by fitting a washer to any stopcock, tap or valve) alter, repair, or in any way interfere with, any service pipe, cock, or fitting connected with it or lay any pipe to indirectly communicate with a water network unless the person holds a water supply plumber's licence.

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

**15 Notice of interference with certain pipes communicating with water network**

- (1) A person must not—
  - (a) alter, repair or replace a pipe or fitting communicating with the water network, without first—
    - (i) giving to the chief executive 2 business days written notice, of the intention to commence the work; and
    - (ii) if approval is required for a plan under the regulations—obtaining that approval; or

- (b) contravene any direction given by the chief executive about how the alteration, repair, replacement or communication is to be made; or
- (c) lay any pipe communicating with a water network otherwise than as authorised under MP52.

Maximum penalty: 20 penalty units.

- (2) A notice under subsection (1) must be signed by—
  - (a) the licensed plumber actually engaged in doing the work referred to in the notice; or
  - (b) the licensed plumber employing another plumber to do the work under his or her supervision.
- (3) A licensed plumber must not—
  - (a) sign a notice for work that is not actually done by the plumber or by a plumber under his or her supervision; or
  - (b) do work under a notice not signed by the licensed plumber.

Maximum penalty: 50 penalty units.

- (4) This section applies to a service communication with a water network made through the intervening medium of a storage tank, as well as to communication by direct service.

## **16 Interference with drains etc connected with sewerage system**

- (1) A person must not alter, remove or interfere with the sanitary drainage or sanitary plumbing system unless the person—
  - (a) has given not less than 2 business days written notice to the chief executive of his or her intention to commence the work; or

- (b) if the work is minor sanitary plumbing work—gives to the chief executive a minor works notice within 7 days after completing the work; or
- (c) if the work is minor drainage work—gives to the chief executive a minor works notice within 7 days after completing the work.

Maximum penalty: 20 penalty units.

- (2) A notice under subsection (1) must, except in the case of a minor works notice—
  - (a) for work relating to a single residential building—be accompanied by a site plan; or
  - (b) in any other case—be accompanied by a plan approval under section 8 (Issue of plan approvals).
- (3) A site plan must be drawn in accordance with Australian Standard 1100 on a scale of not less than 1:200.

*Note* If a form is approved under s 48 (Approved forms) for a site plan, the form must be used.

- (4) Subsection (1) does not apply to—
  - (a) a person who holds a journeyman plumber's licence who performs minor sanitary plumbing work if the work is performed under the general supervision of a person who—
    - (i) holds a sanitary plumber's licence and who has given notice under subsection (1) (a); or
    - (ii) submits a minor works notice within 7 days after completing the work; and
  - (b) a person who holds an operative drainer's licence who performs minor drainage work if the work is performed under the general supervision of a person who—



- (i) holds an advanced sanitary drainer's licence and who has given notice under subsection (1) (a); or
  - (ii) submits a minor works notice within 7 days after completing the work.
- (5) For this section, work is *minor sanitary plumbing work* if—
  - (a) the work is sanitary plumbing work that is limited to maintenance of existing work; and
  - (b) the holder of a sanitary plumber's licence has entered into a contract with a person to perform the work; and
  - (c) the consideration to be given for performance of the work, excluding the cost of sanitary fixtures supplied for the work, is not greater than \$1 000 in value.
- (6) For this section, work is *minor drainage work* if—
  - (a) the work is the replacement or repair of any drain; and
  - (b) the holder of an advanced sanitary drainer's licence has entered into a contract with a person to perform the work; and
  - (c) the consideration to be given for performance of the work, excluding the cost of sanitary fixtures supplied for the work, is not greater than \$1 000 in value.

- (7) In this section:

*minor works notice* means a notice that certifies that the work was completed in accordance with the regulations.

*Note* If a form is approved under s 48 (Approved forms) for a notice, the form must be used.

## 17 Use of unlicensed plumbers

A licensed plumber or drainer must not, without reasonable excuse, engage or employ a person to do any plumbing or sanitary drainage

**Part 4**                      Enforcement

Section 17

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work unless the person is the holder of a licence authorising the person to do that class of work.

Maximum penalty: 50 penalty units.

## **Part 4**                      **Enforcement**

### **Division 4.1**              **General**

#### **18**      **Definitions for pt 4**

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, or is intended to be used, to commit the offence.

*occupier*, of premises, includes—

- (a) a person reasonably believed 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 is being, has been or will be committed.

*reasonably believes* means has reasonable grounds for believing.

#### **20**      **Chief executive may require information and documents**

- (1) If the chief executive is satisfied that a person is capable of providing information or producing a document that the chief executive reasonably requires for this Act, the chief executive may, by written notice given to the person, require the person—
  - (a) to give the information to the chief executive in writing signed by the person or, in the case of a corporation, by an officer of the corporation; or

(b) to produce the document to the chief executive.

*Note* For how documents may be served, see Legislation Act, pt 19.5.

(2) The notice must state—

(a) the place at which the information or document is to be given or produced to the chief executive; and

(b) the time at which, or the period within which, the information or document is to be given or produced.

(3) If a document is produced in accordance with a requirement under subsection (1), the chief executive—

(a) may—

(i) take possession of, and make a copy of, or take extracts from, the document; and

(ii) retain possession of the document for such period as is necessary for this Act; and

(b) must, during that period, allow a person who would be entitled to inspect the document, if it was not in the possession of the chief executive, to inspect the document at any reasonable time.

## **21 Contravention of requirement by chief executive**

A person must not, without reasonable excuse, contravene a requirement under section 20.

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

## **22 Chief executive may require rectification of defective work**

(1) This section applies if work has not been done in accordance with an inspector's direction under section 32 (4) (Powers on entry to premises) and the chief executive reasonably believes that—

- (a) the work is necessary to ensure that the plumbing, or the sanitary drainage system, complies with this Act; and
- (b) it is necessary to give a direction under this section to protect—
  - (i) the health or safety of people; or
  - (ii) public or private property; or
  - (iii) the environment.
- (2) The chief executive may, in writing, direct the owner to do the work to which the inspector's direction relates in the way, and within the time, mentioned in the chief executive's direction.
- (3) If the owner contravenes a direction under subsection (2), the chief executive may arrange for the work to be done.
- (4) The reasonable expenses incurred by the chief executive under subsection (3) are a debt due by the owner to the Territory.

## **Division 4.2                    Inspectors**

### **23      Appointment of inspectors**

- (1) The chief executive may appoint a person as an inspector for this Act.
  - Note 1* For the making of appointments (including acting appointments), see Legislation Act, div 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 s 207).
- (2) An inspector must perform his or her functions under this Act in accordance with the conditions of appointment and any direction given to the inspector by the chief executive.
- (3) A person must not be appointed under subsection (1) unless—

- (a) the person is an Australian citizen or a permanent resident of Australia; and
- (b) the chief executive has certified in writing that, after appropriate inquiry, the chief executive is satisfied that the person is a suitable person to be appointed, having regard in particular to—
  - (i) whether the person has any criminal convictions; and
  - (ii) the person's employment record; and
- (c) the chief executive has certified in writing that the chief executive is satisfied that the person—
  - (i) has satisfactorily completed adequate training; and
  - (ii) is competent;

to exercise the powers of an inspector proposed to be given to the person.

## **24 Identity cards**

- (1) The chief executive must give each inspector an identity card—
  - (a) that specifies the inspector's name and appointment as an inspector; and
  - (b) on which there is a recent photograph of the inspector.
- (2) A person must, within 7 days after ceasing to be an inspector, return the identity card to the chief executive.

Maximum penalty (subsection (2)): 1 penalty unit.

## **25 Chief executive's powers**

The chief executive may, subject to this part, exercise all the powers of an inspector.

**26 Delegation—chief executive**

The chief executive may delegate the chief executive's functions under this part (other than section 23 (Appointment of inspectors)) to an inspector or public servant.

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

**27 Power to enter premises**

- (1) An inspector may, for this Act—
  - (a) enter any premises at any time with the consent of the occupier; or
  - (b) at any reasonable time, enter premises connected to a water network or sewerage network (other than a part of the premises used for residential purposes); or
  - (c) enter premises in accordance with a warrant under this division.
- (2) An inspector may, without the occupier's consent or a warrant, enter the land around premises to ask the occupier for consent to enter the premises.

**28 Production of identity card**

An inspector may not remain on premises entered under this part if, on request by the occupier, the inspector does not produce his or her identity card.

**29 Consent to entry**

- (1) When seeking the consent of an occupier for entering premises under this part, an inspector must—
  - (a) produce his or her identity card; and
  - (b) tell the occupier—

- (i) the purpose of the entry; and
  - (ii) that anything found and seized by the inspector may be used in evidence in court; and
  - (iii) that consent may be refused.
- (2) If the occupier consents, the inspector must ask the occupier to sign a written acknowledgment—
- (a) that the occupier was told—
    - (i) the purpose of 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) the time, and day, when consent was given.
- (3) If the occupier signs an acknowledgment of consent, the inspector must immediately give a copy to the occupier.
- (4) Unless the contrary is proved, a court must presume that an occupier did not consent to an entry to premises by an inspector under this part if—
- (a) the question whether the occupier consented to the entry arises in proceedings in the court; and
  - (b) an acknowledgment under this section is not produced in evidence for the entry; and
  - (c) it is not proved that the occupier consented to the entry.

### **30 Warrants**

- (1) An inspector 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 inspector 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 (the evidence) connected with an offence against this Act; and
  - (b) the evidence is, or may be within the next 14 days, at the premises.
- (5) The warrant must state—
  - (a) that the inspector may, with necessary help and force, enter the premises and exercise the inspector's powers under this part; and
  - (b) the offence for which the warrant is sought; and
  - (c) the evidence that may be seized under the warrant; and
  - (d) the hours when the premises may be entered; and
  - (e) the date, within 14 days after the warrant's issue, the warrant ends.

### **31 Warrants—application made other than in person**

- (1) An inspector may apply for a warrant by phone, fax, radio or other form of communication if the inspector considers it necessary because of—
  - (a) urgent circumstances; or
  - (b) other special circumstances.

- (2) Before applying for the warrant, the inspector must prepare an application stating the grounds on which the warrant is sought.
- (3) The inspector may apply for the warrant before the application is sworn.
- (4) After issuing the warrant, the magistrate must immediately fax a copy to the inspector if it is reasonably practicable to do so.
- (5) If it is not reasonably practicable to fax a copy to the inspector—
  - (a) the magistrate must—
    - (i) tell the inspector what the terms of the warrant are; and
    - (ii) tell the inspector the date and time the warrant was issued; and
  - (b) the inspector must complete a form of warrant (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 facsimile warrant, or the warrant form properly completed by the inspector, authorises the entry and the exercise of the inspector's powers under this part.
- (7) The inspector must, at the first reasonable opportunity, send the magistrate—
  - (a) the sworn application; and
  - (b) if the inspector completed a warrant form—the completed warrant form.
- (8) On receiving the documents, the magistrate must attach them to the warrant.

- (9) Unless the contrary is proven, a court must presume that a power exercised by the inspector was not authorised by a warrant under this section if—
- (a) the question arises in a proceeding before the court whether the exercise of power was authorised by a warrant; and
  - (b) the warrant is not produced in evidence.

### **Division 4.3 Powers of inspectors on entry to premises**

#### **32 Powers on entry to premises**

- (1) An inspector who enters premises under this part may, for this Act—
- (a) inspect or measure the premises or anything on the premises, in particular any plumbing, or sanitary drainage system; or
  - (b) take photographs or films or audio, video or other recordings of the premises or anything on the premises; or
  - (c) take copies or extracts of documents kept on the premises; or
  - (d) inspect records on the premises in relation to plumbing or sanitary drainage work; or
  - (e) require the occupier to give reasonable help to exercise a power under this Act; or
  - (f) require the occupier or a person on the premises to—
    - (i) answer questions or give information; or
    - (ii) make available any record or document kept on the premises.

- (2) A person must not, without reasonable excuse, contravene a requirement under subsection (1) (e) or (f).

Maximum penalty: 50 penalty units.

- (3) For subsection (1), the inspector may open up premises or excavate land, doing as little damage as is reasonably practicable in the circumstances.

- (4) An inspector who exercises a power under subsection (1) and finds any part of the plumbing, or the sanitary drainage system, that—

- (a) does not comply with, or has not tested in accordance with, this Act; or
- (b) is in bad order and condition, or requires cleaning or alteration or should be filled up;

may give a written direction to the owner of the premises, or the person who did the work, to take stated action to ensure that the system, or the doing of related work, complies with the Act.

- (5) If the direction requires testing, the direction may also require the production to the inspector of a written report about the test by the person who did the test within a stated time after doing the test.

- (6) A person must not, without reasonable excuse, contravene a direction under subsection (4).

Maximum penalty: 50 penalty units.

- (7) If any part of the plumbing, or the sanitary drainage system, is not found by the inspector to be of the nature mentioned in subsection (4) (a) or (b), the inspector must arrange for the service or system to be promptly put back as near as is reasonably practicable to its former condition or state.

- (8) The costs or expenses incurred by the inspector under subsection (7), including any testing or examination, must be met by the Territory.

### **33 Power to require name and address**

- (1) An inspector may require a person to state the person's name and address if the inspector—
  - (a) finds a person committing an offence against this Act; or
  - (b) reasonably believes that a person has committed an offence against this Act.
- (2) In exercising a power under subsection (1), an inspector must—
  - (a) inform the person of the reasons for the requirement; and
  - (b) as soon as practicable after making the requirement, record those reasons.
- (3) A person is not required to comply with a requirement under subsection (1) if, on request by the person, the inspector does not produce his or her identity card.
- (4) A person must not, without reasonable excuse, contravene a requirement under subsection (1).

Maximum penalty (subsection (4)): 5 penalty units.

### **34 Power to seize evidence**

- (1) An inspector who enters premises with a warrant under this part may seize the evidence for which the warrant was issued.
- (2) An inspector who enters premises under this part without a warrant may seize a thing on the premises if—
  - (a) the inspector is satisfied the thing is connected with an offence against this Act; and
  - (b) seizure of the thing is consistent with the purpose of the entry as told to the occupier in seeking the occupier's consent.
- (3) An inspector may also seize another thing on the premises entered under this part if the inspector is satisfied—

- (a) the thing is connected with an offence against this Act; and
  - (b) the seizure is necessary to prevent the thing being—
    - (i) concealed, lost or destroyed; or
    - (ii) used to commit, continue or repeat the offence.
- (4) Having seized a thing, the inspector 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.
- (5) A person must not, without the chief executive’s approval, interfere with a thing to which access has been restricted under subsection (4).

Maximum penalty (subsection (5)): 50 penalty units, imprisonment for 6 months or both.

### **35 Receipt for things seized**

- (1) As soon as practicable after a thing is seized by an inspector under this part, the inspector 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 inspector must leave the receipt, secured conspicuously at the place of seizure.

### **36 Access to things seized**

A person who would, but for the seizure, be entitled to 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.

### **37 Return of things seized**

- (1) A thing seized under this part must be returned to its owner, or reasonable compensation must be paid to the owner by the Territory for the loss of the thing, if—
  - (a) a prosecution for an offence relating to the thing is not instituted within 90 days of the seizure; or
  - (b) the court does not find the offence proved in a prosecution for an offence relating to the thing.
- (2) A thing seized under this part is forfeited to the Territory if a court—
  - (a) finds an offence relating to the thing to be proved; and
  - (b) orders the forfeiture.
- (3) If subsection (2) (a) applies, but a court does not order forfeiture of the thing seized, the chief executive must return the thing to its owner or the Territory must pay reasonable compensation to the owner for the loss of the thing.

### **38 Power to inspect plumbing or sanitary drainage work**

- (1) An inspector may enter and remain on premises to conduct a test or inspection under this Act in relation to plumbing or sanitary drainage work.
- (2) An inspector may enter and remain on the premises under subsection (1)—
  - (a) at any reasonable time; and
  - (b) with the people, equipment or material that the inspector reasonably needs to conduct the test or inspection.
- (3) However, the inspector may not, under this section—
  - (a) enter or remain on premises if, on request by the occupier, the inspector does not produce his or her identity card; or

- (b) without the consent of the occupier, enter or remain on any part of the premises used for residential purposes.
- (4) The power to enter premises under this section is additional to the powers under section 27 (Power to enter premises).

## **Division 4.4**                      **Miscellaneous**

### **39**      **Selfincrimination etc**

- (1) A person is not excused from providing information, producing a document or answering a question when required to do so under this part on the ground that the information, document or answer might tend to incriminate the person.
- (2) However—
  - (a) the provision of the information, document or answer; or
  - (b) any information, document or thing obtained as a direct or indirect consequence of providing the information, document or answer;is not admissible in evidence against the person in criminal proceedings.
- (3) Subsection (2) does not apply to proceedings for—
  - (a) an offence under this part; or
  - (b) any other offence in relation to the falsity of the information or document.

*Note 1* A reference to an offence against a Territory law includes a reference to a related ancillary offence, eg attempt (see *Legislation Act 2001*, s 189).

*Note 2* The *Legislation Act 2001*, s 171 deals with the application of client legal privilege.



**41 Providing false or misleading information**

A person must not, in purported compliance with a requirement under this part, knowingly give information that is false or misleading in a material particular.

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

**42 Providing false or misleading documents**

A person must not, in purported compliance with a requirement under this part, produce a document (or a copy of a document) that the person knows is false or misleading in a material particular.

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

**43 Obstruction**

A person must not, without reasonable excuse, hinder or obstruct an inspector in the exercise of a function under this part.

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

## Part 5 Miscellaneous

### 44 Review of decisions

- (1) Application may be made to the administrative appeals tribunal for review of the following decisions:
  - (a) a decision by the chief executive to give a direction under section 22 (Chief executive may require rectification of defective work);
  - (b) a decision by an inspector to give a direction under section 32 (4) (Powers on entry to premises).
- (2) A person who makes a decision mentioned in subsection (1) must give written notice of the decision to each person affected by the decision.
- (3) A notice under subsection (2) must be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

### 45 Determination of fees

- (1) The Minister may, in writing, determine fees for this Act.

*Note* The *Legislation Act 2001* 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 2001*.

### 48 Approved forms

- (1) The chief executive may, in writing, approve forms for this Act.

*Note* For other provisions about forms, see *Legislation Act*, s 255.

- (2) If the chief executive approves a form for a particular purpose, the approved form must be used for that purpose.
- (3) An approved form is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

#### **49 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 2001*.

- (2) The regulations may also make provision in relation to—
  - (a) the certification of plumbing or sanitary drainage work; and
  - (b) the doing of plumbing or sanitary drainage work; and
  - (c) the inspection of the plumbing, or the sanitary drainage system, or plumbing or sanitary drainage work; and
  - (d) notification requirements in relation to plumbing or sanitary drainage work; and
  - (e) standards for plumbing or sanitary drainage work and the approval of materials to be used in that work; and
  - (f) the connection of equipment to infrastructure related to the supply of water or to drains or sewers; and
  - (g) the removal or repair of defective plumbing or sanitary drainage work; and
  - (h) the review of decisions made under the regulations; and
  - (i) the payment of fees.

- (3) The regulations may make provision about a matter by applying, adopting or incorporating (with or without change) a standard, or a provision of a standard, as in force from time to time.

*Note 1* A statutory instrument may also apply, adopt or incorporate (with or without change) a law or instrument (or a provision of a law or instrument) as in force at a particular time (see *Legislation Act 2001*, s 47 (1)).

*Note 2* If a statutory instrument applies, adopts or incorporates a law or instrument (or a provision of a law or instrument), the law, instrument or provision may be taken to be a notifiable instrument that must be notified under the *Legislation Act 2001* (see s 47 (2)-(6)).

- (4) The regulations may also prescribe offences for contraventions of the regulations and prescribe maximum penalties of not more than 10 penalty units for offences against the regulations.

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## Dictionary

(see s 2)

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

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

- administrative appeals tribunal
- appoint
- chief executive
- disallowable instrument
- document
- function
- magistrate
- penalty unit (see s 133)
- the Territory.

***Australian Standard 3500*** means Australian Standard 3500 as in force from time to time.

***certifier*** means a registered construction practitioner who is registered in the category of plumbing plan certifier in accordance with the Construction Practitioners Registration Regulations 1998.

***connected***, with an offence, for part 4 (Enforcement)—see section 18.

***credit card*** includes a debit card.

***drain*** means any pipe or conduit connected to, and used for—

- (a) the drainage of a single building; or
- (b) the drainage of any group of buildings by a combined operation in accordance with the regulations;

and communicating with a sewerage network or to a septic tank, on-site sewerage treatment unit or other receptacle for drainage.

**fire sprinkler service**—see Australian Standard 3500.

**inspector**—see section 23 (Appointment of inspectors).

**licence** means a licence in force under the *Plumbers, Drainers and Gasfitters Board Act 1982*.

**MP52** means the Manual of Authorisation Procedures for Plumbing and Drainage Products, published by Standards Australia on behalf of the Agriculture and Resources Management Council of Australia and New Zealand Committee for Plumbing Product Authorisations, entitled ‘SAA MP52’, as in force from time to time.

**occupier**, of premises, for part 4 (Enforcement)—see section 18.

**offence**, for part 4 (Enforcement)—see section 18.

**owner**, for land, includes the occupier, lessee, tenant or holder of any land on which any sewerage or water service has been, or is to be, installed.

**plan approval** means a plan approval issued under section 8 (Issue of plan approvals).

**premises** includes land and place.

**reasonably believes**, for part 4 (Enforcement)—see section 18.

**responsible utility** means—

- (a) in relation to the sewerage network—a utility licensed to provide sewerage services using the network; and
- (b) in relation to the water network—a utility licensed to provide water services using the network.

**sewer** means any pipe or conduit (other than a drain) used, or for use, for the conveyance of sewage.

**sewerage network**—see the *Utilities Act 2000*, section 14.

***single residential building*** means a detached house or a building making up no more than 2 residences, and includes—

- (a) a part of such a building; and
- (b) an adjunct to such a building.

***site plan***—see Australian Standard HB 50 as in force on 1 March 1999.

***water network***—see the *Utilities Act 2000*, section 12.

## Endnotes

1 About the endnotes

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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 and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

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.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	p = page
cl = clause	par = paragraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	prov = provision
exp = expires/expired	pt = part
Gaz = Gazette	r = rule/subrule
hdg = heading	reg = regulation/subregulation
IA = Interpretation Act 1967	renum = renumbered
ins = inserted/added	reloc = relocated
LA = Legislation Act 2001	R[X] = Republication No
LR = legislation register	RI = reissue
LRA = Legislation (Republication) Act 1996	s = section/subsection
mod = modified / modification	sch = schedule
No = number	sdiv = subdivision
num = numbered	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired



### 3 Legislation history

#### **Water and Sewerage Act 2000**

notified 20 December 2000 (Gaz 2000 No S68)

s 1, s 2 commenced 20 December 2000 (IA s 10B)

remainder commenced 1 January 2001 (Gaz 2000 No S69)

as amended by

#### **Legislation (Consequential Amendments) Act 2001 No 44 pt 413**

notified 26 July 2001 (Gaz 2001 No 30)

s 1, s 2 commenced 26 July 2001 (IA s 10B)

pt 413 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

#### **Legislation Amendment Act 2002 No 11 pt 2.52**

notified LR 27 May 2002

s 1, s 2 commenced 27 May 2002 (LA s 75)

pt 2.52 commenced 28 May 2002 (s 2 (1))

#### **Criminal Code 2002 No 51 pt 1.28**

notified LR 20 December 2002

s 1, s 2 commenced 20 December 2002 (LA s 75 (1))

pt 1.28 commenced 1 January 2003 (s 2 (1))

#### **Statute Law Amendment Act 2003 A2003-41 sch 3 pt 3.23**

notified LR 11 September 2003

s 1, s 2 commenced 11 September 2003 (LA s 75 (1))

sch 3 pt 3.23 commenced 9 October 2003 (s 2 (1))

### 4 Amendment history

#### **Dictionary**

s 2

orig s 2 om 2001 No 44 amdt 1.4275  
(prev s 3) renum A2003-41 amdt 3.500

#### **Interpretation**

s 3

orig s 3 am 2001 No 44 amdt 1.4276; A2003-41 amdt 3.499  
renum as s 2  
(prev s 4) renum A2003-41 amdt 3.500

## Endnotes

### 4 Amendment history

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#### Notes

s 4 orig s 4 renum as s 3  
ins A2003-41 amdt 3.501

#### Appointment of certifiers

s 5 am A2003-41 amdt 3.502, amdt 3.503

#### Notification of cessation of appointment of certifier

s 10 am A2003-41 amdt 3.504

#### Interference with drains etc connected with sewerage system

s 16 am 2001 No 44 amdt 1.4277, amdt 1.4278; A2003-41  
amdt 3.505

#### Definitions for pt 4

s 18 def **connected** ins A2003-41 amdt 3.506  
def **offence** ins A2003-41 amdt 3.506

#### Things connected with offences

s 19 om A2003-41 amdt 3.507

#### Chief executive may require information and documents

s 20 am A2003-41 amdt 3.508

#### Appointment of inspectors

s 23 am A2003-41 amdt 3.509

#### Delegation—chief executive

s 26 sub A2003-41 amdt 3.510

#### Selfincrimination etc

s 39 am 2002 No 11 amdt 2.111; 2002 No 51 amdt 1.58

#### Legal professional privilege

s 40 om 2002 No 11 amdt 2.112

#### Determination of fees

s 45 sub 2001 No 44 amdt 1.4279

#### Fees payable to Territory in accordance with determinations etc

s 46 om 2001 No 44 amdt 1.4280

#### Regulations may make provision about fees

s 47 om 2001 No 44 amdt 1.4280

#### Approved forms

s 48 sub 2001 No 44 amdt 1.4281  
am A2003-41 amdt 3.511

#### Regulation-making power

s 49 am 2001 No 44 amdt 1.4282, amdt 1.4283

#### Transitional

pt 6 hdg exp 1 January 2002 (s 55)

**Definitions for pt 6**

s 50 exp 1 January 2002 (s 55)

**Repeal**

s 51 om R2 (LA)

**Certifiers**

s 52 exp 1 January 2002 (s 55)

**Plan approvals**

s 53 exp 1 January 2002 (s 55)

**Regulations—transitional matters**

s 54 exp 1 January 2002 (s 55)

**Expiry of pt 6**

s 55 exp 1 January 2002 (s 55)

**Dictionary**

dict am A2003-41 amdt 3.512, amdt 3.513  
 def **connected** ins A2003-41 amdt 3.514  
 def **function** om A2003-41 amdt 3.515  
 def **occupier** ins A2003-41 amdt 3.516  
 def **offence** ins A2003-41 amdt 3.516  
 def **reasonably believes** ins A2003-41 amdt 3.516  
 def **this Act** om A2003-41 amdt 3.517

**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. Except for the footer, electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	not amended	24 May 2001
2	Act 2001 No 44	12 September 2001
3	Act 2001 No 44	10 January 2002
4	Act 2002 No 11	30 May 2002
5	A2002-51	1 January 2003

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