



Australian Capital Territory

# Water Resources Amendment Act 2010

A2010-31

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Australian Capital Territory

# Water Resources Amendment Act 2010

A2010-31

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

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

**1 Name of Act**

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

**2 Commencement**

This Act 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 Legislation amended**

This Act amends the *Water Resources Act 2007*.

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

**4 New section 7A**

*insert*

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

- (1) For this Act, the water resources of the Territory include—
- (a) surface water and ground water on national land; and

(b) the surface water of the Googong Dam Area.

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

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

(2) In this section:

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

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

*substitute*

- (a) the intended use of the water and the place it is proposed to be used is—
- (i) consistent with the conditions of the entitlement; and
  - (ii) either—
    - (A) consistent with the Territory plan; or
    - (B) approved by the authority responsible for water management in the State or Territory where the water is to be used; and

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

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

**7 New section 28 (1)**

*insert*

- (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.

**8 Section 28 (6)**

*omit*

This section does not apply to—

*substitute*

However, a licence is not required for—

**9 Section 33 heading**

*substitute*

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

**10 Section 33 (as amended)**

*relocate as section 77B (1)*

**11 New section 33**

*insert*

**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.

**12 Bore work licence—requirement  
Section 37 (1) and (2)**

*relocate as section 77B (2) and (3)*



**13 New section 37 (1)**

*insert*

- (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.

**14 Bore work licence—decision on application  
Section 39 (2) (a)**

*substitute*

- (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

**15 Section 39 (2) (b)**

*omit*

grant

*substitute*

issue

**16 New section 39 (3)**

*insert*

- (3) In this section:

***monitoring bore*** means a bore that—

- (a) enters an aquifer; and
- (b) is used to monitor the depth and fluctuations of depth in the aquifer.

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

*relocate as section 77C (1)*

**18 New section 42 (1)**

*insert*

- (1) A person must not do waterway work if—
- (a) the work adversely affects, or may adversely affect, the flow or quality of water, or the aquatic habitat, in the waterway; and
  - (b) the person does not have a waterway work licence for the waterway work.

**19 Section 42 (2)**

*omit*

This section does not apply to

*substitute*

However, a waterway work licence is not required for

**20 Section 47 heading**

*substitute*

**47 Offence—do work without recharge licence**

**21 Section 47 (as amended)**

*relocate as section 77D*

**22 New section 47**

*insert*

**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.

**23 Offence—failing to produce licence  
Section 57**

*relocate as section 77E*

**24 Offence—contravening licence conditions  
Section 58**

*relocate as section 77F*

**25 New section 58**

*insert*

**58 Licence conditions—requirement**

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

**26 Offences—contravening certain conditions of licence to  
take water  
Section 59**

*relocate as section 77G*

**27 Notice prohibiting or restricting taking of water  
Section 71 (6) and penalty**

*substitute*

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

**28 Direction to modify or remove water structure  
Section 72 (2) and penalty**

*substitute*

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

**29 Direction to rectify effect of unauthorised activity etc  
Section 73 (3)**

*omit*

may

*substitute*

must

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

*substitute*

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

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

*omit*

may

*substitute*

must

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

*substitute*

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

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

*substitute*

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

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

*omit*

may

*substitute*

must

**35 Section 76 (4) and (5)**

*substitute*

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

**36 New part 9A and section 77A headings**

*insert*

## **Part 9A Offences**

**77A Offences—take water without licence**

**37 New section 77A (6)**

*insert*

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

**38 New section 77B (4)**

*insert*

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

**39 New section 77C heading**

*insert*

**77C Offence—do waterway work without licence**

**40 New section 77C (2)**

*insert*

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

**41 New sections 77H and 77I**

*insert*

**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
  - (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.

**42 Dictionary, note 2**

*insert*

- national land



## **Schedule 1      Consequential amendments**

(see s 3)

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

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

*substitute*

77A (2)
77A (4)
77G (1)
77G (2)
77G (3)
77G (4)
77G (5)

### **Part 1.2                      Water Resources Regulation 2007**

#### **[1.2]      Section 6 heading**

*substitute*

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

**[1.3] Section 10 heading**

*substitute*

**10 Exemptions from requirement for bore work licence—  
Act, s 37 (2)**

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**Endnotes**

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 25 March 2010.

**2 Notification**

Notified under the Legislation Act on 1 September 2010.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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I certify that the above is a true copy of the Water Resources Amendment Bill 2010, which was passed by the Legislative Assembly on 19 August 2010.

Acting Clerk of the Legislative Assembly