

2014

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for the Environment)

Water Efficiency Labelling and Standards (ACT) Bill 2014

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(Minister for the Environment)

Water Efficiency Labelling and Standards (ACT) Bill 2014

A Bill for

An Act to apply as a law of the Territory a national law relating to water efficiency labelling and standards, and for other purposes

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Water Efficiency Labelling and Standards (ACT)*
4 *Act 2014*.

5 **2 Commencement**

6 This Act commences on the day after its notification day.

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

9 **3 Object of Act**

10 (1) The object of this Act is to adopt in the Territory a uniform national
11 approach to the regulation of water efficiency labelling and
12 standards.

13 (2) This Act—

14 (a) applies the Commonwealth water efficiency laws as a law of
15 the Territory; and

16 (b) makes provision to enable the Commonwealth water efficiency
17 laws and the applied provisions to be administered on a
18 uniform basis by the Commonwealth as if they constituted a
19 single law of the Commonwealth.

1 **4 Dictionary**

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

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

6 For example, the signpost definition ‘*applied provisions*—see
7 section 8 (1).’ means that the term ‘applied provisions’ is defined in that
8 section.

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

13 **5 Notes**

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

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

17 **6 Terms used in Water Efficiency Labelling and Standards
18 Act 2005 (Cwlth)**

19 Terms used in this Act and also in the [Water Efficiency Labelling
20 and Standards Act 2005](#) (Cwlth) have the same meanings in this Act
21 as they have in that Act.

22 **7 References to Commonwealth Acts**

23 In this Act, a reference to a Commonwealth Act includes a reference
24 to—

25 (a) the Commonwealth Act, as in force from time to time; and

26 (b) if another Act is substituted for the Commonwealth Act—the
27 substituted Act, as in force from time to time.

1 **Part 2 Applied provisions**

2 **8 Application of Commonwealth laws as a law of Territory**

- 3 (1) The Commonwealth water efficiency laws, as in force from time to
4 time and as modified by or under this Act including schedule 1, (the
5 *applied provisions*), apply as a law of the Territory.
- 6 (2) The Commonwealth water efficiency laws apply as if they extended
7 to matters in relation to which the Territory may make laws—
- 8 (a) whether or not the Commonwealth may make laws in relation
9 to those matters; and
- 10 (b) even though the Commonwealth water efficiency laws provide
11 that they apply only to stated matters in relation to which the
12 Commonwealth may make laws.

13 **9 Modification of Commonwealth water efficiency laws**

- 14 (1) A regulation under this Act may also modify the Commonwealth
15 water efficiency laws for this Act.
- 16 (2) Without limiting subsection (1), a regulation may provide that the
17 Commonwealth water efficiency laws apply under section 8 (1) as if
18 an amendment to the Commonwealth water efficiency laws made by
19 the Commonwealth and stated in the regulation had not taken effect.

20 **10 Interpretation of applied provisions**

- 21 (1) The *Acts Interpretation Act 1901* (Cwlth) applies as a law of the
22 Territory in relation to the interpretation of the applied provisions,
23 and applies as if the applied provisions were a Commonwealth Act
24 or were regulations or other instruments under a Commonwealth
25 Act, as the case requires.

- 26 (2) The *Legislation Act* does not apply to the applied provisions.

27 *Note* Despite the *Legislation Act* not applying to the applied provisions, it
28 applies to this Act and to instruments made under this Act.

1 **Part 3** **Functions under applied**
2 **provisions**

3 **11** **Functions of Commonwealth Regulator and other**
4 **authorities and officers**

5 The Commonwealth Regulator and other authorities and officers
6 mentioned in the applied provisions have the same functions under
7 the applied provisions as they have under the Commonwealth water
8 efficiency laws, as those laws apply to the Commonwealth.

9 *Note 1* **Function** includes authority, duty and power (see [Legislation Act](#), dict,
10 pt 1).

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

14 **12** **Delegations by Commonwealth Regulator**

15 Any delegation by the Commonwealth Regulator under the [Water](#)
16 [Efficiency Labelling and Standards Act 2005](#) (Cwlth) is taken to
17 extend to, and have effect for the corresponding provision of the
18 applied provisions.

1 **Part 4** **Offences**

2 **13** **Object of pt 4**

- 3 (1) The object of this part is to further the object of this Act by
4 providing for an offence against the applied provisions to be treated
5 as if it were an offence against a law of the Commonwealth.
- 6 (2) The purposes for which an offence is to be treated as mentioned in
7 subsection (1) include, for example—
- 8 (a) the investigation and prosecution of offences; and
9 (b) the arrest, custody, bail, trial and conviction of offenders or
10 people charged with offences; and
11 (c) proceedings relating to a matter mentioned in paragraph (a)
12 or (b); and
13 (d) appeals and reviews relating to criminal proceedings and to
14 proceedings of the kind mentioned in paragraph (c); and
15 (e) the sentencing, punishment and release of people convicted of
16 offences; and
17 (f) fines, penalties and forfeitures; and
18 (g) infringement notices in relation to offences; and
19 (h) liability to make reparation in relation to offences; and
20 (i) proceeds of crime; and
21 (j) spent convictions.

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

- 1 **14 Application of Commonwealth criminal laws to offences**
2 **against applied provisions**
- 3 (1) The relevant Commonwealth laws apply as laws of the Territory in
4 relation to an offence against the applied provisions as if those
5 provisions were a law of the Commonwealth and not a law of the
6 Territory.
- 7 (2) For a law of the Territory, an offence against the applied
8 provisions—
- 9 (a) is taken to be an offence against the laws of the
10 Commonwealth, in the same way as if those provisions were a
11 law of the Commonwealth; and
- 12 (b) is taken not to be an offence against the laws of the Territory.
- 13 (3) Subsection (2) has effect for a law of the Territory other than as
14 provided by a regulation made under this Act.
- 15 **15 Functions conferred on Commonwealth officers and**
16 **authorities relating to offences**
- 17 (1) A Commonwealth law applying because of section 14 that confers
18 on a Commonwealth officer or authority a function in relation to an
19 offence against the Commonwealth water efficiency laws also
20 confers on the officer or authority the same function in relation to an
21 offence against the corresponding provision of the applied
22 provisions.

1 (2) In exercising a function conferred by this section, the
2 Commonwealth officer or authority must act as nearly as practicable
3 as the officer or authority would act in exercising the same function
4 in relation to an offence against the corresponding provision of the
5 Commonwealth water efficiency laws.

6 *Note 1* **Function** includes authority, duty and power (see [Legislation Act](#), dict,
7 pt 1).

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

11 **16 No double jeopardy for offences against applied**
12 **provisions**

13 An offender is not liable to be punished for an offence under the
14 applied provisions if—

- 15 (a) the act or omission is an offence against both the applied
16 provisions and the Commonwealth water efficiency laws; and
17 (b) the offender has been punished for the offence under the
18 Commonwealth water efficiency laws.

1 **Part 5** **Administrative laws**

2 **17** **Application of Commonwealth administrative laws to**
3 **applied provisions**

- 4 (1) The Commonwealth administrative laws apply as laws of the
5 Territory to any matter arising in relation to the applied provisions
6 as if those provisions were a law of the Commonwealth and not a
7 law of the Territory.
- 8 (2) For a law of the Territory, a matter arising in relation to the applied
9 provisions—
- 10 (a) is taken to be a matter arising in relation to laws of the
11 Commonwealth, in the same way as if those provisions were a
12 law of the Commonwealth; and
- 13 (b) is taken not to be a matter arising in relation to laws of the
14 Territory.
- 15 (3) Subsection (2) has effect for a law of the Territory other than as
16 provided by a regulation made under this Act.
- 17 (4) Any provision of a Commonwealth administrative law applying
18 because of this section that purports to confer jurisdiction on a
19 federal court is taken not to have that effect.
- 20 (5) For this section, a reference in a provision of the *Administrative*
21 *Appeals Tribunal Act 1975* (Cwlth) (as that provision applies as a
22 law of this jurisdiction) to the whole or any part of that Act, part 4A
23 (Appels and references of questions of law to the Federal Court of
24 Australia) is taken to be a reference to the whole or any part of that
25 part as it has effect as a law of the Commonwealth.

- 1 **18 Functions conferred on Commonwealth officers and**
2 **authorities**
- 3 (1) A Commonwealth administrative law applying because of
4 section 17 that confers on a Commonwealth officer or authority a
5 function also confers on the officer or authority the same function in
6 relation to a matter arising in relation to the applied provisions.
- 7 (2) In exercising a function conferred by this section, the
8 Commonwealth officer or authority must act as nearly as practicable
9 as the officer or authority would act in exercising the same function
10 under the Commonwealth administrative law.
- 11 *Note 1* **Function** includes authority, duty and power (see [Legislation Act](#), dict,
12 pt 1).
- 13 *Note 2* A provision of a law that gives an entity (including a person) a function
14 also gives the entity powers necessary and convenient to exercise the
15 function (see [Legislation Act](#), s 196 and dict, pt 1, def *entity*).

1 **Part 6** **Miscellaneous**

2 **19** **Things done for multiple purposes**

3 The validity of a licence, certificate or other thing issued, given or
4 done for the applied provisions is not affected only because it was
5 issued, given or done also for the Commonwealth water efficiency
6 laws.

7 **20** **Reference in Commonwealth law to provision of another**
8 **law**

9 For section 14 and section 17, a reference in a Commonwealth law
10 to a provision of that or another Commonwealth law is taken to be a
11 reference to that provision as applying because of those sections.

12 **21** **Fees and other money**

13 All fees, penalties, fines and other money that, under this Act and
14 the applied provisions, are authorised or directed to be payable by or
15 imposed on any person (but not including an amount ordered to be
16 refunded to another person) must be paid to the Commonwealth.

17 **22** **Regulation-making power**

18 (1) The Executive may make regulations for this Act.

19 *Note* A regulation must be notified, and presented to the Legislative
20 Assembly, under the [Legislation Act](#).

21 (2) A regulation may create offences and fix maximum penalties of not
22 more than 30 penalty units for the offences.

1 **Part 7** **Repeal and transitional**

2 **23** **Legislation repealed**

3 The *Water Efficiency Labelling and Standards Act 2005* (A2005-10)
4 is repealed.

5 **24** **Transitional**

6 (1) On the commencement day, anything that was in effect in relation to
7 the **repealed Act** immediately before the commencement day
8 becomes a thing with the same effect in relation to this Act and the
9 applied provisions.

10 (2) In this section:

11 *commencement day* means the day this Act, section 8 commences.

12 *repealed Act* means the *Water Efficiency Labelling and Standards*
13 *Act 2005*.

1 **Schedule 1** **Modifications—Water**
2 **Efficiency Labelling and**
3 **Standards Act 2005 (Cwlth)**

4 (see s 8)

5 **[1.1] Section 51 (3)**

6 *omit*

7 Penalty: Imprisonment for 6 months.

8 *substitute*

9 Maximum penalty: 60 penalty units.

10 **[1.2] Section 61 (3)**

11 *omit*

12 Penalty: Imprisonment for 6 months.

13 *substitute*

14 Maximum penalty: 60 penalty units.

15 **[1.3] Section 62 (3) and (4)**

16 *omit*

17 Penalty: Imprisonment for 6 months.

18 *substitute*

19 Maximum penalty: 60 penalty units.

1 Dictionary

2 (see s 4)

3 *Note 1* The [Legislation Act](#) contains definitions and other provisions relevant to
4 this Act.

5 *Note 2* For example, the [Legislation Act](#), dict, pt 1, defines the following terms:

- 6 • Commonwealth
- 7 • Executive
- 8 • exercise
- 9 • function
- 10 • in relation to
- 11 • power
- 12 • regulation
- 13 • the Territory.

14 ***applied provisions***—see section 8 (1).

15 ***Commonwealth administrative laws*** means the following
16 Commonwealth Acts and regulations:

- 17 (a) the [Administrative Appeals Tribunal Act 1975](#) (excluding
18 part 4A);
- 19 (b) the [Freedom of Information Act 1982](#);
- 20 (c) the [Ombudsman Act 1976](#);
- 21 (d) the [Privacy Act 1988](#);
- 22 (e) the regulations in force under any of those Acts.

23 ***Commonwealth Regulator*** means the Regulator under the [Water](#)
24 [Efficiency Labelling and Standards Act 2005](#) (Cwlth), section 21.

25 ***Commonwealth water efficiency laws*** means—

- 26 (a) the [Water Efficiency Labelling and Standards Act 2005](#)
27 (Cwlth); and
- 28 (b) all regulations, guidelines, principles, standards and codes of
29 practice in force under that Act.

