

2005

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

UTILITIES (GAS RESTRICTIONS) REGULATION 2005

Subordinate Law SL2005 - 8

EXPLANATORY STATEMENT

Circulated by the authority of

Jon Stanhope MLA
Chief Minister

Utilities (Gas Restrictions) Regulation 2005

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PURPOSE

The *Utilities (Gas Restrictions) Regulation 2005* (regulation) is made under the *Utilities Act 2000*, section 234. Its purpose is to provide for the introduction and enforcement of a gas restriction scheme in the ACT.

BACKGROUND

This regulation will overcome the current lack in legislation of provision for the imposition of restrictions on the use of gas in times of gas supply shortage. The creation of a scheme of gas restrictions is in keeping with one of the purposes of the Utilities Act, namely, to ensure the efficient provision of utility services (including the supply of gas).

Section 234 of the Utilities Act provides the Executive with the power to make provision in relation to the safe or efficient provision of utility services, including provision prohibiting or regulating activities to ensure the safe or efficient operation of a utility network or network facility.

DETAILS OF THE REGULATION

Part 1 contains the preliminary provisions of the regulation.

Part 2 provides for the Minister to approve a gas restriction scheme and to make a declaration of gas restrictions, and for a licensed gas distribution and connection services provider (the utility) to impose restriction measures when a declaration is in force.

Part 3 provides for the enforcement of gas restrictions.

Part 1 – Preliminary

Section 1 provides that the name of the regulation as the Utilities (Gas Restrictions) Regulation 2005.

Section 2 provides the commencement date of the regulation as the day after its notification.

Section 3 specifies that the dictionary for the regulation is part of the regulation.

Section 4 deals with notes found in the regulation and provides that such notes are for explanatory purposes and do not form part of the regulation.

Section 5 provides that other legislation applies in relation to offences against this regulation.

Part 2 – Gas restriction scheme

Section 6 provides that the Minister may, in writing, approve a gas restriction scheme (the scheme) if satisfied that the scheme is necessary to facilitate the provision of efficient, reliable and sustainable gas services by utilities to consumers, to protect the interests of consumers and public safety, and to manage the safety and security of the gas network. The approval of the scheme is a disallowable instrument.

Section 7 specifies that, for the Minister to approve the scheme, the scheme must provide for a range of gas restriction measures that may be imposed. The scheme may include provision for the utility to exempt a consumer from restrictions where serious detriment could be caused.

Section 8 specifies that the chief executive must, in a notifiable instrument, specify a place where copies of documents describing the approved gas restriction scheme (approved scheme) are available for inspection.

Section 9 provides that the Minister may, by notifiable instrument and in accordance with the approved scheme, declare that a gas restriction is in force and that restriction measures may be imposed by the utility under section 10 of this regulation.

The declaration must also state the period for which the declaration is in force, but this period cannot exceed three (3) months. However, to allow for the need for any extension beyond the three-month limit, the Minister may make more than one declaration in relation to the same gas restriction.

Section 10 provides that the utility may, in writing, impose gas restriction measures under a declared gas restriction, in accordance with the approved scheme. The utility must ensure the publication and broadcasting by public notice of the restriction measures. However, if this does not occur, the validity of the imposition of restriction measures is not affected.

To allow any necessary fine-tuning of the restriction measures, the utility may make subsequent impositions of the restriction measures under a declared gas restriction.

Section 11 provides that the chief executive may, in writing or orally, require the utility to produce reports about the effectiveness and operation of restrictions imposed. The utility must comply with the requirement. The chief executive may specify the content, frequency and timing of reports. The purpose of this provision is to allow an assessment of the effectiveness of the approved gas restriction scheme.

Section 12 provides that restrictions imposed under this regulation will continue to have effect during an emergency under the *Emergencies Act 2004* (Emergencies Act), when the territory controller is exercising his or her functions, unless the restrictions are contradictory to the exercise of the territory controller's functions. The provision

gives the territory controller the option of keeping any restrictions imposed under this regulation in place and active during an emergency.

Part 3 – Enforcement

Section 13 provides that ‘gas restriction’ means ‘a gas restriction imposed under section 9’ of the regulation.

Section 14 states that a person commits an offence if that person is the occupier of premises and gas is used on the premises in contravention of gas restriction measures which have been notified by public notice under section 10.

Such an offence is a strict liability offence, which means that the offender is liable, irrespective of an absence of negligence or intention on his or her part. However, if prosecuted for an offence against this section, proof by the offender that he or she did not know that the gas restriction had been imposed is a defence to the prosecution.

Section 15 empowers an authorised person for the utility to give a written direction to an occupier of premises if the authorised person believes, on reasonable grounds, that the occupier is, or was and may continue, using gas in contravention of an imposed restriction measure. The direction must state the action the occupier must take to ensure that gas is used in accordance with the imposed restriction measures. The direction may state the period in which the person must comply with the direction.

The direction may also be given by leaving it in the person’s letterbox or securing it in a conspicuous position on the premises where the unauthorised use occurs.

Section 16 states that a person commits an offence if an authorised person has given the person a direction under section 15 and the person contravenes the direction. An offence committed against this regulation is a strict liability offence.

Section 17 provides for an authorised person, under specified circumstances, to cut off the gas supply to a premises to end the unauthorised use of gas where the authorised person believes, on reasonable grounds, that a person is contravening a direction given under section 15 and the direction is unlikely to end the contravention.

The authorised officer must give written notice stating the particulars of the action to be taken under this section.

Section 18 provides that any inconvenience, detriment or damage caused by the authorised person and any person helping the authorised person in the exercise of a function under this regulation be minimised, and that written notice must be given to the owner of anything damaged of the particulars of the damage.

Section 19 provides immunity from liability for a utility, an authorised person, a person helping an authorised person or anyone acting under the direction of a utility in relation to anything done or omitted to be done honestly in the exercise of a function under the regulation.