

2006

THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY

UTILITIES (WATER CONSERVATION) REGULATION 2006

Subordinate law No 9 of 2006

EXPLANATORY STATEMENT

Circulated by the authority of the Chief Minister

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PURPOSE

The Utilities (Water Conservation) Regulation 2006 is made under the *Utilities Act 2000*. The purpose is to provide for the introduction and enforcement of a regime for water conservation measures and temporary water restrictions.

BACKGROUND

The regulation will provide for a set of measures to ensure that the ACT community uses water wisely thereby conserving water use and avoiding the waste of water. It also provides when necessary for a temporary water restrictions scheme when water is in limited availability such as in a drought situation. The water conservation measures that can be approved can be amended over time, where necessary, for example additional measures can be approved. Similarly, the temporary water restrictions scheme which is approved by the Minister can be revised over time.

DETAILS OF THE REGULATIONS

Part 2 provides for the establishment of water conservation measures to ensure conservative use of water. These measures are to be developed by the water utility in consultation with the environment protection authority and are approved by the Minister.

Part 3 provides for the Minister to approve a temporary water restrictions scheme to be developed and imposed by a utility subject to certain conditions being met.

Part 4 provides for the enforcement of the conservation measures and the temporary water restrictions.

Part 5 provides for the prevention of the wastage of water, including related compliance powers.

Part 6 deals with miscellaneous matters including the production of an identity card by the authorised person and the repeal of Utilities (Water Restriction) Regulations 2002 and related instruments.

Part 1 - Preliminary

Clause 1 provides that the name of the regulation is Utilities (Water Conservation) Regulation 2006.

Clause 2 provides the commencement date of the regulation as the day fixed by the Minister by written notice.

Clause 3 specifies that the regulation contains a dictionary found at the end of the regulation.

Clause 4 deals with notes found in the legislation and provides that a note in the legislation is for explanatory purposes and is not part of the Act.

Part 2 Water Conservation Measures

Clause 5 provides that the Minister may approve water conservation measures as developed by the utility to conserve water. The clause provides the purpose and basis for introducing water conservation measures. An approval is a disallowable instrument.

The clause allows the utility to exempt consumers from the measures if the measures cause the consumer serious detriment.

Clause 6 provides that the utility after developing water conservation measures is required to publicise the information. This is to be done by making copies of document(s) available for inspection by members of the public during office hours at the head of the utility and on the utility's website. Details of the measures are to be published in a daily newspaper.

Clause 7 provides that an occupier of premises commits an offence if water is used on the premises that contravenes of an approved water conservation measure. An offence of this type is a strict liability offence.

Clause 8 states that an approved water conservation measure as provided in part 2 has no effect on the temporary water restrictions scheme where it is inconsistent with that at scheme.

Part– 3 Temporary water restrictions

Clause 9 provides that the Minister may, in writing, approve a water restriction scheme developed by a utility if satisfied that the scheme is necessary to ensure the provision of efficient, reliable and sustainable water services by the utility to consumers and to protect the interests of consumers. The utility must have developed the scheme in consultation with the Environment Protection Authority.

An approval is a disallowable instrument.

Clause 10 specifies that the scheme must provide for a range of restrictions to be imposed on the use of water by consumers. Different stages of restrictions are to be imposed and determined with reference to the capacity of stored water available to the utility for water services and the reduction in water consumption sought to be achieved by the imposition of each stage of restrictions. The water restriction scheme may include provision for the utility to exempt a consumer from restrictions where serious detriment could be caused. This regulation does not limit the scope of an approved water restriction scheme. This clause does not limit the scope of a temporary water restrictions scheme.

Clause 11 specifies that the utility must make copies of documents describing an approved scheme available for inspection by members of the public during ordinary office hours at the head office of the utility, on the utility's web site on the Internet and at any other place decided by the utility.

Clause 12 specifies that a utility may, in writing, declare that water restrictions are imposed on the use of water by consumers. The imposition of the restrictions must be in accordance with the approved temporary water restrictions scheme. Utility may make more than one declaration in relation to the same stage of water restrictions thereby enabling the scheme to be renewed or extended if required.

Before making a declaration, the utility must consult with the Minister and the Environment Protection Authority about the proposed declaration.

A declaration by a utility is a notifiable instrument.

Clause 13 specifies that if a utility makes a declaration under Clause 8, the utility must also publish notice of the declaration and water restrictions in a daily newspaper and on the utility's web site on the internet.

Clause 14 specifies that an occupier of premises commits an offence if water is used in contravention of a water restriction. The maximum penalty for an offence is 10 penalty units and an offence against this clause is a strict liability offence.

Part 4 – Enforcement – conservation measures and temporary restrictions

Clause 15 describes the scope of the enforcement powers of authorised persons for a utility may exercise under this part of the regulation. Their function is only in relation to water used on premises to which the utility provides water services.

Clause 16 relates to directions by an authorised person. It specifies that this regulation applies if an authorised person for a utility believes on reasonable grounds that the occupier of premises is using water from the utility's network in contravention of an approved water conservation measure or a temporary water restriction, then the authorised person may give the occupier a written direction to take action to ensure that water is used only in accordance with the approved water conservation measure or temporary water restriction.

The direction must state the period in which the person must comply with the direction. The direction may 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.

Clause 17 provides that a person commits an offence if an authorised person for a utility gives the person a direction under section 16 and the person contrives the direction in relation to a conservation measure or temporary water restrictions. The maximum penalty for an offence is 10 penalty units. An offence against this section is a strict liability offence.

Clause 18 provides power for authorised persons of a utility to enter premises. Authorised persons who believe on reasonable grounds that water is being used contrary to a water restriction, may enter premises (other than parts used for residential premises), at any reasonable time, to inspect the premises and take action to end the section 20, ending unauthorised use of water. The authorised person may enter residential premises with any necessary assistance and force.

Clause 19 deals with ending unauthorised use of water. An authorised person 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 a conservation measure or a temporary water restriction.

The authorised person may do any of the following actions:

- (a) adjust a tap or other water outlet to stop the contravention;
- (b) if equipment is used to control the use of water on 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.

If the above action is impracticable, the authorised person may stop the supply of water to the premises from the water network to prevent the contravention.

The authorised person must give the occupier of the premises a written notice stating particulars of the action taken under this section.

It is sufficient if the notice is addressed to ‘the occupier’ of the premises. The notice may also be given by leaving it in the letterbox at the premises; or by securing it in a conspicuous place at the premises.

Part 5 - Preventing waste of water

Clause 20 provides for an authorised person for a utility to exercise a function under this part of the regulation only in relation to water supplied by the utility at premises to which the utility provides water services.

Clause 21 defines the meaning of waste in relation to water.

Clause 22 relates to directions by an authorised person. It specifies that this regulation applies if an authorised person for a utility believes on reasonable grounds that the occupier of premises is using water from the utility’s network in contravention of an approved water restriction, then the authorised person may give the occupier a written direction to take action to ensure that water is used only in accordance with the approved water restriction.

The direction must state the period in which the person must comply with the direction. The direction may 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.

Clause 23 states that a person commits an offence if an authorised person has given that person a direction under Clause 16 and the person contravenes the direction.

The maximum penalty for an offence is 10 penalty units. An offence committed against this section of the regulation is a strict liability offence.

Clause 24 provides power for authorised persons of a utility to enter premises. Authorised persons who believe on reasonable grounds that water is being wasted contrary to a water restriction, may enter premises (other than parts used for residential premises), at any reasonable time, to inspect the premises and take action under section 25, ending waste of water. The authorised person may enter residential premises with any necessary assistance and force.

Clause 25 provides that an authorised person 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 stop waste of water. An authorized person

Part 6 Miscellaneous

Clause 26 specifies that an authorised person must not remain on premises entered under Part 4, Enforcement, if the authorised person does not produce his or her identity card when asked by the occupant to do so.

Clause 27 deals with the requirement that an authorised person or anyone helping the authorised person must take reasonable steps in exercising their function under this regulation to ensure that they cause as little inconvenience, detriment and damage as is practicable.

If an authorised person for the utility or anyone helping the authorised person damages anything in the course of exercising or purporting to exercise their function, the authorized person is required to give a written notice of the particulars of the damage to the person that the authorised person believes to be the owner of the thing. The notice can be addressed to the ‘occupier’ of the premises where the damage happened and be left in the letterbox or by securing it in a conspicuous place on those premises.

Clause 28 repeals the *Utilities (Water Restriction) Regulations 2002*, *Utilities (Water Restrictions Scheme) Approval 2005 (No 1)* and *Utilities (Water Restrictions) Declaration 2006 (No 1) NI2006-19*.

Dictionary

The dictionary defines the terms approved water conservation measure, temporary water restriction, temporary water restriction scheme and utility.

FINANCIAL IMPLICATIONS

Nil