

2002

THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY

UTILITIES (WATER RESTRICTIONS) REGULATIONS 2002

Subordinate Law No 33 of 2002

EXPLANATORY STATEMENT

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PURPOSE

The *Utilities (Water Restrictions) Regulations 2002* are made under the *Utilities Act 2000*. Their purpose is to provide for the introduction and enforcement of a water restriction scheme in the ACT.

BACKGROUND

These regulations will overcome the current lack of provision for restrictions on the use of water in times of drought. Section 234 of the *Utilities Act 2000* provides a power to establish regulations. The creation of a scheme for water restrictions is in keeping with one of the purposes of the *Utilities Act* which is to ensure the efficient provision of utility services (including the supply of water).

DETAILS OF THE REGULATIONS

Part 2 provides for the Minister to approve a water restriction scheme to be developed and imposed by a utility subject to certain conditions being met.

Part 3 provides for the enforcement of the water restriction scheme.

The regulations refer to *Magistrates Court (Utilities Infringement Notices) Regulations 2002*, which creates a system of infringement notices under the *Magistrates Court Act 1930*, part 8, for certain offences against the *Utility (Water Restrictions) Regulations 2002*.

Part 1 - Preliminary

Clause 1 provides that the name of the regulations is the *Utilities (Water Restrictions) Regulations 2002*.

Clause 2 provides the commencement date of the regulations as the day after their notification.

Clause 3 specifies that the regulations contain a dictionary found at the end of the regulations.

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 restriction scheme

Clause 5 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 6 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.

Clause 7 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 8 specifies that a utility may, in writing, declare that water restrictions are imposed. The imposition of the restrictions must be in accordance with the approved scheme. The declaration cannot be greater than a period of 3 months, but can be extended through subsequent declarations. Before making a declaration, the utility must consult with the Minister and the Environment Protection Authority.

A declaration is a notifiable instrument.

Clause 9 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 10 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 is a strict liability offence.

Part 3 – Enforcement

Clause 11 describes the scope of the enforcement powers of authorised persons under the regulations.

Clause 12 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 13 states that a person commits an offence if an authorised person has given that person a direction under Clause 12 and the person contravenes the direction. The maximum penalty for an offence is 10 penalty units. An offence committed against this regulation is a strict liability offence.

Clause 14 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 unauthorised use of water. The authorised person may enter non-residential premises with any necessary assistance and force.

Clause 15 specifies that an authorised person must not remain on premises entered under Part 3 Enforcement, if the authorised person does not produce his or her identity card when asked by the occupant to do so.

Clause 16 provides for an authorised person to take action to end unauthorised use of water. He or she may take action in situations where he or she believes on reasonable grounds that a person is contravening a direction under regulation 12, or water is being used in contravention of a water restriction, or the person is unlikely to comply with a direction, or where the premises are temporarily unoccupied; or the owner or occupier cannot be found.

The authorised person may take action under this regulation to stop the use of the water, adjust the operation of equipment, stop the water supply to the equipment or, if necessary, stop the supply of water to the premises from the network. Written notice must be placed in the person's letterbox or by securing it in a conspicuous place on the premises.

Clause 17 provides that an authorised person must take reasonable steps to cause as little inconvenience, detriment or damage as possible. If in the exercise of these regulations, an authorised person or anyone assisting an authorised person, causes

damage, the authorised person must give written notice of the particulars of the damage to the owner by leaving it in the letterbox or by securing it in a conspicuous place on those premises.

Clause 18 provides penalties for obstruction of the duties of an authorised person. The maximum penalty is 10 penalty units and strict liability applies to obstruction of the authorised person's functions.

FINANCIAL IMPLICATIONS

Nil