



Australian Capital Territory

# Utilities (Water Restrictions) Regulations 2002

**Subordinate Law SL2002-33**

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The Australian Capital Territory Executive makes the following regulations under the *Utilities Act 2000*.

Dated 21 November 2002.

TED QUINLAN  
Minister

BILL WOOD  
Minister

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*Utilities Act 2000*

## Contents

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	Page
<b>Part 1</b>	
<b>Preliminary</b>	
1 Name of regulations	1
2 Commencement	1
3 Dictionary	1
4 Notes	1

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	Page
<b>Part 2</b>	<b>Water restriction scheme</b>
5	Approved water restriction scheme 2
6	Scope of water restriction scheme 2
7	Public inspection of scheme documents 3
8	Imposition of water restrictions 3
9	Additional notification of water restrictions 4
10	Contravening restrictions 4
<b>Part 3</b>	<b>Enforcement</b>
11	Scope of enforcement powers 5
12	Directions by authorised people 5
13	Contravening directions of authorised people 6
14	Power to enter premises 6
15	Production of identity card 6
16	Ending unauthorised use of water 7
17	Damage etc to be minimised 8
18	Obstruction etc of authorised person 9
<b>Dictionary</b>	10

## Part 1 Preliminary

### 1 Name of regulations

These regulations are the *Utilities (Water Restrictions) Regulations 2002*.

### 2 Commencement

These regulations commence on the day after their notification day.

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

### 3 Dictionary

The dictionary at the end of these regulations is part of these regulations.

*Note 1* The dictionary at the end of these regulations defines certain words and expressions used in these regulations, and includes references (*signpost definitions*) to other words and expressions defined elsewhere in these regulations.

For example, the signpost definition '*authorised person*—see the Act, dictionary.' means that the expression 'authorised person' is defined in the dictionary to the Act.

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

### 4 Notes

A note included in these regulations is explanatory and is not part of these regulations.

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

## Part 2 Water restriction scheme

### 5 Approved water restriction scheme

- (1) The Minister may, in writing, approve a scheme developed by a utility to restrict the use of water (the *approved water restriction scheme*) if satisfied that—
  - (a) the scheme is necessary to—
    - (i) ensure the provision of efficient, reliable and sustainable water services by the utility to consumers; and
    - (ii) protect the interests of consumers; and
  - (b) the utility developed the scheme in consultation with the environment protection authority.
- (2) An approval is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

### 6 Scope of water restriction scheme

- (1) The Minister may approve a water restriction scheme under regulation 5 only if the scheme provides for the following:
  - (a) a range of water restrictions to be imposed on the use of water by consumers;
  - (b) the mandatory imposition of different stages of water restrictions;
  - (c) the imposition of each stage of water restrictions by reference to—
    - (i) the capacity of stored water available to the utility for water services; and

- (ii) the reduction in water consumption sought to be achieved.
- (2) An approved water restriction scheme may include provision for the utility to exempt a consumer from a water restriction if the restriction would cause the consumer serious detriment.
- (3) This regulation does not limit the scope of an approved water restriction scheme.

## **7 Public inspection of scheme documents**

- (1) The utility that developed a water restriction scheme approved under regulation 5 must make copies of a document or documents setting out the scheme available for inspection by members of the public—
  - (a) during ordinary office hours at the head office of the utility; and
  - (b) on the utility's web site on the internet.
- (2) The utility may also make the document or documents available for inspection at any other place decided by the utility.

## **8 Imposition of water restrictions**

- (1) A utility may impose restrictions on the use of water by consumers by declaring, in writing, that water restrictions under a stage of an approved water restriction scheme are in force.
- (2) The imposition of water restrictions under subregulation (1) must be in accordance with the approved water restriction scheme.
- (3) The declaration has effect for the period (not longer than 3 months) stated in the declaration.
- (4) To remove any doubt, a utility may make more than 1 declaration in relation to the same stage of water restrictions.

- (5) Before making a declaration, the utility must—
- (a) consult the environment protection authority about the proposed declaration; and
  - (b) notify the Minister as soon as possible of its intention to make the declaration.
- (6) A declaration is a notifiable instrument.

*Note 1* A notifiable instrument must be notified under the Legislation Act.

*Note 2* The power to make a declaration includes the power to revoke the declaration (see Legislation Act, s 46).

## 9 Additional notification of water restrictions

The utility that makes a declaration under regulation 8 must also publish the declaration and details of the water restrictions that are in force—

- (a) in a daily newspaper; and
- (b) on the utility's web site on the internet.

*Note* *Daily newspaper* is defined in the Act, dict.

## 10 Contravening restrictions

- (1) The occupier of premises commits an offence if water is used on the premises in contravention of a water restriction.

Maximum penalty: 10 penalty units.

- (2) An offence against this regulation is a strict liability offence.

## Part 3 Enforcement

### 11 Scope of enforcement powers

An authorised person for a utility may exercise a function under this part only in relation to water used on premises to which the utility provides water services.

### 12 Directions by authorised people

- (1) This regulation applies if an authorised person for a utility believes on reasonable grounds that—
  - (a) water has been used, or is being used, on premises in contravention of a water restriction; or
  - (b) water has been used on premises in contravention of a water restriction and that a further contravention is likely.
- (2) The authorised person may give the occupier of the premises a written direction to take action stated in the direction to ensure that water is used in accordance with the water restrictions.
- (3) It is sufficient if the direction is addressed to ‘the occupier’ of the premises.
- (4) The direction may state a period in which the person must comply with the direction.
- (5) The direction may also be given—
  - (a) by leaving it in the letterbox at the premises; or
  - (b) by securing it in a conspicuous place at the premises.

*Note* For other ways in which the direction may be given, see Legislation Act, pt 19.5.

**13 Contravening directions of authorised people**

- (1) A person commits an offence if—
  - (a) an authorised person for a utility has given the person a direction under regulation 12; and
  - (b) the person contravenes the direction.Maximum penalty: 10 penalty units.
- (2) An offence against this regulation is a strict liability offence.

**14 Power to enter premises**

- (1) This regulation applies if an authorised person for a utility believes on reasonable grounds that water has been used, or is being used, on premises in contravention of a water restriction.
- (2) For these regulations, an authorised person for a utility may enter any part of the premises (other than a part used for residential purposes) at any reasonable time, and—
  - (a) inspect the premises and anything on the premises; and
  - (b) take action under regulation 16 (Ending unauthorised use of water).
- (3) For subregulation (2), the authorised person may enter the premises with any necessary assistance and force.

**15 Production of identity card**

An authorised person for a utility must not remain on premises entered under this part if, when asked by the occupier, the authorised person does not produce his or her identity card for inspection by the occupier.

**16 Ending unauthorised use of water**

- (1) An authorised person for a utility may take action under this regulation if the authorised person believes on reasonable grounds that a person is contravening a direction under regulation 12 (Directions by authorised people).
- (2) An authorised person for a utility may also take action under this regulation if the authorised person believes on reasonable grounds that—
  - (a) water is being used on premises in contravention of water restrictions; and
  - (b) a direction under regulation 12 is unlikely to end the contravention because, for example—
    - (i) the premises are unoccupied (whether temporarily or permanently); or
    - (ii) after making reasonable inquiries, the authorised person cannot find the occupier of the premises; or
    - (iii) the occupier is unlikely to comply with the direction; and
  - (c) the contravention is likely to continue unless action is taken under this regulation.
- (3) The authorised person may do any of the following:
  - (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 restrictions;
  - (c) if the authorised person cannot make the adjustment mentioned in paragraph (b)—stop the supply of water to the equipment.
- (4) If action under subregulation (3) (a) or (c) is impracticable, the authorised person may stop the supply of water to the premises from the water network to prevent the contravention.

- (5) The authorised person must give the occupier of the premises a written notice stating particulars of the action taken under this regulation.
- (6) It is sufficient if the notice is addressed to ‘the occupier’ of the premises.
- (7) The notice may also be given—
  - (a) by leaving it in the letterbox at the premises; or
  - (b) by securing it in a conspicuous place at the premises.

*Note* For other ways in which the direction may be given, see Legislation Act, pt 19.5.

## **17 Damage etc to be minimised**

- (1) In the exercise, or purported exercise, of a function under these regulations, an authorised person for a utility must take reasonable steps to ensure that the authorised person, and anyone helping the authorised person, causes as little inconvenience, detriment and damage as is practicable.
- (2) If an authorised person for a utility, or anyone helping an authorised person, damages anything in the exercise, or purported exercise, of a function under these regulations, the authorised person must give written notice of the particulars of the damage to the person whom the authorised person believes is the owner of the thing.
- (3) It is sufficient if the notice is addressed to ‘the occupier’ of the premises where the damage happened.
- (4) The notice may also be given—
  - (a) by leaving it in the letterbox at the premises where the damage happened; or
  - (b) by securing it in a conspicuous place at those premises.

*Note* For other ways in which the direction may be given, see Legislation Act, pt 19.5.

**18 Obstruction etc of authorised person**

- (1) A person commits an offence if—
- (a) the person knows that, or is reckless about the fact that, a person is an authorised person; and
  - (b) the person obstructs, hinders, intimidates or resists the authorised person in the exercise of the authorised person's functions under these regulations.

Maximum penalty: 10 penalty units.

- (2) Strict liability applies to subregulation (1) (b).

## Dictionary

(see reg 3)

*Note 1* The Legislation Act contains definitions and other provisions relevant to these regulations.

*Note 2* In particular, the Legislation Act, dict, pt 1, defines the following terms:

- contravene
- environment protection authority
- Minister.

*approved water restriction scheme*—see regulation 5.

*authorised person*—see the Act, dictionary.

*premises*—see the Act, dictionary.

*water restriction* means a water restriction imposed under regulation 8.

*utility* means a water supplier.

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## Endnotes

### Penalty units

- 1 The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

### Notification

- 2 Notified under the Legislation Act on 21 November 2002.  
(see [www.legislation.act.gov.au](http://www.legislation.act.gov.au))

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