



Australian Capital Territory

Utilities (Water Restrictions) Regulations 2002 No 33

made under the

Utilities Act 2000

Republication No 2

Effective: 12 March 2003

Republication date: 12 March 2003

Last amendment made by SL2003-8

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Utilities (Water Restrictions) Regulations 2002*, made under the *Utilities Act 2000* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 12 March 2003. It also includes any amendment, repeal or expiry affecting the republished law to 12 March 2003.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



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Part 1 Preliminary

1 Name of regulations

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

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 1 or more of the following:
 - (i) the capacity or quality of stored water available to the utility for water services;
 - (ii) any reduction in water consumption 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.

Endnotes

1 About the endnotes

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	p = page
cl = clause	par = paragraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	prov = provision
exp = expires/expired	pt = part
Gaz = Gazette	r = rule/subrule
hdg = heading	reg = regulation/subregulation
IA = Interpretation Act 1967	renum = renumbered
ins = inserted/added	reloc = relocated
LA = Legislation Act 2001	R[X] = Republication No
LR = legislation register	RI = reissue
LRA = Legislation (Republication) Act 1996	s = section/subsection
mod = modified / modification	sch = schedule
No = number	sdiv = subdivision
num = numbered	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

3 Legislation history

Utilities (Water Restrictions) Regulations 2002 SL2002-33

notified LR 21 November 2002

reg 1, reg 2 commenced 21 November 2002 (LA s 75 (1))

remainder commenced 22 November 2002 (reg 2)

as amended by

**Utilities (Water Restrictions) Amendment Regulations 2003 (No 1)
SL2003-8**

notified LR 11 March 2003

reg 1, reg 2 commenced 11 March 2003 (s 75 (1))

remainder commenced 12 March 2003 (reg 2)

4 Amendment history

Commencement

reg 2 om LA s 89 (4)

Scope of water restriction scheme

reg 6 am SL2003-8 reg 4

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	not amended	22 November 2002

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