



Australian Capital Territory

Utilities (Water Restrictions) Regulation 2002

SL2002-33

made under the

Utilities Act 2000

Republication No 4

Effective: 1 November 2004 – 30 March 2006

Republication date: 1 November 2004

Last amendment made by A2004-15
(republishing includes editorial amendments
under Legislation Act)

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Utilities (Water Restrictions) Regulation 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 1 November 2004. It also includes any amendment, repeal or expiry affecting the republished law to 1 November 2004.

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 includes 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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Utilities Act 2000

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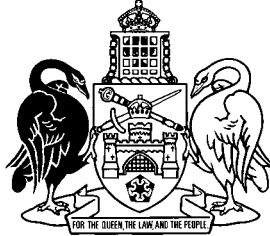
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Utilities (Water Restrictions) Regulation 2002
Effective: 01/11/04-30/03/06

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Australian Capital Territory

Utilities (Water Restrictions) Regulation 2002

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Part 1 Preliminary

1 Name of regulation

This regulation is the *Utilities (Water Restrictions) Regulation 2002*.

3 Dictionary

The dictionary at the end of this regulation is part of this regulation.

Note 1 The dictionary at the end of this regulation defines certain terms used in this regulation, and includes references (*signpost definitions*) to other terms defined elsewhere in this regulation.

For example, the signpost definition ‘*approved water restriction scheme*—see section 5.’ means that the term ‘approved water restriction scheme’ is defined in that section.

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

4 Notes

A note included in this regulation is explanatory and is not part of this regulation.

Note See the 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 section 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 section 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 section 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 subsection (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 section 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.

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 section 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 section 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 the 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 section 12; and
 - (b) the person contravenes the direction.Maximum penalty: 10 penalty units.
- (2) An offence against this section is a strict liability offence.

14 Power to enter premises

- (1) This section 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 this regulation, 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 section 16 (Ending unauthorised use of water).
- (3) For subsection (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 section if the authorised person believes on reasonable grounds that a person is contravening a direction under section 12 (Directions by authorised people).
- (2) An authorised person for a utility may also take action under this section 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 section 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 section.
- (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 subsection (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 section.
- (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 the Legislation Act, pt 19.5.

17 Damage etc to be minimised

- (1) In the exercise, or purported exercise, of a function under this regulation, 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 this regulation, 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 the Legislation Act, pt 19.5.

Dictionary

(see s 3)

Note 1 The Legislation Act contains definitions and other provisions relevant to this regulation.

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

- contravene
- environment protection authority
- Minister.

Note 3 Terms used in this regulation have the same meaning that they have in the *Utilities Act 2000* (see Legislation Act, s 148.) For example, the following terms are defined in the *Utilities Act 2000*, dict:

- authorised person
- daily newspaper
- premises.

approved water restriction scheme—see section 5.

water restriction means a water restriction imposed under section 8.

utility means a water supplier.

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.

2 Abbreviation key

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

Endnotes

3 Legislation history

3 Legislation history

This regulation was originally the *Utilities (Water Restrictions) Regulations 2002*. It was renamed under the *Legislation Act 2001*.

Utilities (Water Restrictions) Regulation 2002 SL2002-33

notified LR 21 November 2002

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

remainder commenced 22 November 2002 (s 2)

as amended by

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

notified LR 11 March 2003

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

remainder commenced 12 March 2003 (s 2)

Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Act 2004 A2004-15 sch 2 pt 2.95

notified LR 26 March 2004

s 1, s 2 commenced 26 March 2004 (LA s 75 (1))

sch 2 pt 2.95 commenced 9 April 2004 (s 2 (1))

4 Amendment history

Name of regulation

s 1 am R4 LA

Commencement

s 2 om LA s 89 (4)

Scope of water restriction scheme

s 6 am SL2003-8 s 4

Obstruction etc of authorised person

s 18 om A2004-15 amdt 2.203

Dictionary

dict def *authorised person* om R4 LA

def *premises* om R4 LA

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
2	SL2003-8	12 March 2003
3	A2004-15	9 April 2004

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