



Australian Capital Territory

Utilities (Gas Restrictions) Regulation 2005

Subordinate Law SL2005-8

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

Dated 12 April 2005.

JON STANHOPE
Minister

TED QUINLAN
Minister



Australian Capital Territory

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Part 1 Preliminary

1 Name of regulation

This regulation is the *Utilities (Gas Restrictions) Regulation 2005*.

2 Commencement

This regulation commences on the day after its 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 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.

For example, the signpost definition '*territory controller*—see the *Emergencies Act 2004*, dictionary.' means that the term 'territory controller' is defined in that dictionary and the definition applies to this regulation.

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.

5 Offences against regulation—application of Criminal Code etc

Other legislation applies in relation to offences against this regulation.

Note 1 Criminal Code

The Criminal Code, ch 2 applies to all offences against this regulation (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

Note 2 Penalty units

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

Part 2 Gas restriction scheme

6 Approved gas restriction scheme

- (1) The Minister may, in writing, approve a scheme to restrict the use of gas (the *approved gas restriction scheme*) if satisfied that the scheme is necessary, if there is a shortage of gas, to—
 - (a) facilitate, as far as practicable, the provision of efficient, reliable and sustainable gas services by utilities to consumers; or
 - (b) protect the interests of consumers; or
 - (c) manage the safety and security of the gas network and the supply of gas to the network; or
 - (d) protect public safety.
- (2) The approved scheme is a disallowable instrument.

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

7 Scope of gas restriction scheme

- (1) The Minister may approve a gas restriction scheme under section 6 only if the scheme provides for a range of restriction measures that may be imposed under the scheme.
- (2) An approved gas restriction scheme may include provision for a utility to exempt a consumer from a gas restriction if the restriction would cause the consumer serious detriment.

8 Public inspection of scheme documents

- (1) The chief executive must, in writing, name a place where copies of a document or documents setting out the approved gas restriction scheme may be inspected.
- (2) An instrument under subsection (1) is a notifiable instrument.

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

9 Declaration of gas restriction scheme

- (1) The Minister may, in writing, declare that an approved gas restriction scheme is in force.
- (2) The declaration must state—
 - (a) the restriction measures, including their duration or maximum duration, that may be imposed under the scheme; and
 - (b) that a utility may, under section 10, impose those restriction measures; and
 - (c) the period (not longer than 3 months) the declaration is in force.
- (3) To remove any doubt, the Minister may make more than 1 declaration in relation to an approved gas restriction scheme.
- (4) 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 repeal the declaration (see Legislation Act, s 46).

10 Utility may impose gas restriction measures

- (1) A utility may, in writing, impose gas restriction measures under a gas restriction scheme in force under section 9.

Note A power given under an Act to make a statutory instrument includes the power to amend or repeal the instrument (see Legislation Act, s 46).

- (2) The imposition must be in accordance with the approved gas restriction scheme.
- (3) The utility must ensure that public notice of the imposition is, as soon as possible—
 - (a) broadcast in the ACT by television or radio; and
 - (b) published on the utility's web site; and
 - (c) published in a daily newspaper circulating generally in the ACT.
- (4) To remove any doubt, the utility may impose gas restriction measures more than once under a gas restriction scheme in force under section 9.
- (5) A failure to comply with subsection (3) does not affect the validity of the imposition.

11 Reports on gas restrictions

- (1) The chief executive may require a utility to give the chief executive reports about the effectiveness and operation of restrictions imposed by the utility under an approved gas restriction scheme.
- (2) The requirement may include requirements about the content, frequency and timing of reports.
- (3) A utility must comply with the requirement.

12 State of emergency

Restrictions imposed under this regulation have effect subject to the exercise of a function by the territory controller under the *Emergencies Act 2004*.

Part 3 Enforcement

13 Meaning of *gas restriction* for pt 3

In this part:

gas restriction means a gas restriction measure imposed under section 9 (Declaration of gas restriction scheme).

14 Contravening gas restrictions

- (1) A person commits an offence if—
 - (a) the person is the occupier of premises; and
 - (b) gas is used on the premises in contravention of a gas restriction; and
 - (c) the gas restriction has been notified by public notice under section 10 (Utility may impose gas restriction measures).

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) It is a defence to a prosecution for an offence against this section if the defendant proves that the defendant did not know the gas restriction had been imposed.

15 Directions by authorised people

- (1) This section applies if an authorised person believes, on reasonable grounds, that—
 - (a) gas has just been used, or is being used, on premises in contravention of a gas restriction; or
 - (b) gas has been used on premises in contravention of a gas 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 gas is used at the premises in accordance with the gas restriction.
- (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 leaving it, secured conspicuously, at the premises.

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

16 Contravening directions of authorised person

- (1) A person commits an offence if—
 - (a) an authorised person has given the person a direction under section 15; and
 - (b) the person contravenes the direction.

Maximum penalty: 10 penalty units.

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

17 Ending unauthorised use of gas

- (1) An authorised person may arrange to stop the supply of gas from the gas network to premises if the person believes, on reasonable grounds, that the occupier of the premises is contravening a direction under section 15 (Directions by authorised people).
- (2) An authorised person may also arrange to stop the supply of gas from the gas network to premises if the authorised person believes, on reasonable grounds, that—

- (a) gas is being used on the premises in contravention of a gas restriction; and
- (b) a direction under section 15 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.

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) The authorised person must give the occupier of the premises a written notice stating that the supply of gas will be stopped.
- (4) It is sufficient if the notice is addressed to ‘the occupier’ of the premises.
- (5) The notice may also be given—
 - (a) by leaving it in the letterbox at the premises; or
 - (b) by leaving it, secured conspicuously, at the premises.

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

18 Damage etc to be minimised

- (1) In the exercise, or purported exercise, of a function under this regulation, an authorised person must take all reasonable steps to ensure that the authorised person causes as little inconvenience, detriment and damage as practicable.
- (2) If 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 leaving it, secured conspicuously, at those premises.

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

19 Immunity from liability

- (1) A utility, an authorised person, or anyone acting under the direction of a utility, is not liable for anything done or omitted to be done honestly—
 - (a) in the exercise of a function under this regulation; or
 - (b) in the reasonable belief that the act or omission was in the exercise of a function under this regulation.
- (2) Any liability that, apart from subsection (1), would attach to a person attaches instead to the Territory.

Dictionary

(see s 3)

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

Note 2 For example, the Legislation Act, dict, pt 1, defines the following terms:

- chief executive
- contravene
- Minister (see s 162).

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
- gas distributor
- premises.

approved gas restriction scheme—see section 6.

gas restriction, for part 3 (Enforcement)—see section 13.

territory controller—see the *Emergencies Act 2004*, dictionary.

utility means gas distributor.

Endnotes

1 Notification

Notified under the Legislation Act on 13 April 2005.

2 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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