

2005

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for the Environment)

Water Resources Amendment Bill 2005

Contents

		Page
1	Name of Act	2
2	Commencement	2
3	Legislation amended	2
4	New section 35A	2
5	New sections 63A and 63B	3
6	Administrative Decisions (Judicial Review) Act 1989, schedule 1, new clause 10	4

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(Minister for the Environment)

Water Resources Amendment Bill 2005

A Bill for

An Act to amend the *Water Resources Act 1998*, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 **1 Name of Act**

2 This Act is the *Water Resources Amendment Act 2005*.

3 **2 Commencement**

4 This Act commences on the day after its notification day.

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

7 **3 Legislation amended**

8 This Act amends the *Water Resources Act 1998*.

9 *Note* This Act also amends the *Administrative Decisions (Judicial Review)*
10 *Act 1989* (see s 6).

11 **4 New section 35A**

12 *insert*

13 **35A Licences for utilities**

14 (1) A utility that has an allocation and a licence to take water from a
15 waterway may take water under the allocation from—

16 (a) the subcatchment stated in the allocation; or

17 (b) any other subcatchment in the waterway; or

18 (c) any subcatchment in any other waterway for which the utility
19 holds an allocation and a licence to take water.

20 (2) However, a utility may act under subsection (1) (b) and (c) only if—

21 (a) the environmental flow required under the guidelines and the
22 licence is maintained in each waterway from which the water is
23 taken; and

24 (b) the total volume of water taken by the utility is not greater than
25 the total volume stated in all allocations held by the utility.

- 1 (3) This section applies despite any condition of an allocation or licence
2 held by the utility.
- 3 (4) In this section:
- 4 *subcatchment* means a subcatchment described in the management
5 plan.
- 6 *utility* means a utility licensed under the *Utilities Act 2000* to
7 provide a water service.

8 **5 New sections 63A and 63B**

9 *in part 9, insert*

10 **63A Moratorium on granting licences etc**

- 11 (1) The Minister may, in writing, declare that 1 or more of the
12 following provisions are suspended for a period or periods stated in
13 the declaration:
- 14 (a) section 28 (1) to (6) (Allocation of water);
- 15 (b) section 35 (1) to (4) (Licence to take water);
- 16 (c) section 44 (1) and (2) (Bore construction permit);
- 17 (d) section 47 (2) to (6) (Unlicensed recharge);
- 18 (e) section 77 (3) (Review of decisions).
- 19 *Note* A power to make a statutory instrument includes power to make
20 different provision in relation to different matters or different classes of
21 matters (see Legislation Act, s 48).
- 22 (2) A declaration is a disallowable instrument.
- 23 *Note* A disallowable instrument must be notified, and presented to the
24 Legislative Assembly, under the Legislation Act.
- 25 (3) A declaration commences, or is taken to have commenced, on—
- 26 (a) the date stated in the declaration; or

- 1 (b) if no date is stated—the day after its notification day.
- 2 (4) For subsection (3) (a), the date stated may be the date when the bill
- 3 for this Act was first presented to the Legislative Assembly, or any
- 4 later date.

5 **63B Declaration cannot be challenged**

- 6 (1) The making of a declaration under section 63A does not create a
- 7 right.
- 8 (2) Accordingly, a decision to make (or not to make) a declaration is
- 9 final and conclusive.
- 10 (3) To remove any doubt and without limiting subsection (2), the
- 11 following do not apply to decisions mentioned in that subsection:
- 12 (a) section 77 (Review of decisions);
- 13 (b) a territory law relating to the review of decisions that is
- 14 prescribed by a regulation.
- 15 (4) This section has effect despite any other territory law, whether
- 16 passed before or after the commencement of this Act.
- 17 (5) To remove any doubt, a right under subsection (1) means any right
- 18 or interest, whether public or private.

19 **6 Administrative Decisions (Judicial Review) Act 1989,**

20 **schedule 1, new clause 10**

- 21 *insert*
- 22 10 This Act does not apply to decisions of the Minister under the *Water*
- 23 *Resources Act 2005*, section 63A (Moratorium on granting licences
- 24 etc).

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2005.

2 Notification

Notified under the Legislation Act on 2005.

3 Republications of amended laws

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

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