

2010

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

WATER RESOURCES AMENDMENT BILL 2010

EXPLANATORY STATEMENT

Presented by
Mr Simon Corbell MLA
Minister for the Environment, Climate Change and Water

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Overview of Bill

The amendments moved by the Minister for the Environment, Climate Change and Water make several amendments to the *Water Resources Act 2007* (the Act) to facilitate the transfer of surface water and groundwater on Commonwealth land in the ACT from Commonwealth management to regulation through the Act.

The Bill also includes minor amendment to implement the interstate water trading provisions of the National Water Initiative and to resolve inconsistencies in the Act and its regulations in relation to the construction of groundwater monitoring bores.

Offence provisions have been moved from sections of the Act and consolidated in a new Part 9A to simplify the layout and make it easier to read and understand.

Clause Notes

Clause 1 Name of Act – states that the name of the Act is the *Water Resources Amendment Act 2010*.

Clause 2 Commencement – to allow time for the Commonwealth to pass its legislation and for both the ACT and the Commonwealth to implement their new legislative obligations the commencement date will be fixed by the Minister by a written notice.

Clause 3 Legislation amended – states that this amendment is in regard to the *Water Resources Act 2007*.

Clause 4 Territory rights to water New section 7A – to enable all the water in the ACT to be managed as one resource this amendment will allow the control of all surface water and groundwater on national land and the Googong Dam to be under ACT control.

Clause 5 Water access entitlement—transfer Section 26 (2) (a) – to allow interstate trade the Act now includes a provision for interstate trading that sets out that trade can occur with approval of the relevant authority in the receiving State or Territory.

Clause 14 Bore work licence—decision on application— New section 39 (2) (a) – this amendment will allow the Authority to issue a bore work licence for monitoring bores without the applicant holding a water access entitlement. Water is not extracted from monitoring bores and as such a water access entitlement is not required.

Clause 15 Section 39 (2) (b)— this is a technical amendment.

Clause 16 Bore work licence—decision on application section 39 (3) – this definition has been inserted for the purposes of Clause 14.

Clauses 7, 11, 13, 18, 22, 25, 27, 28, 29, 30, 31 and 32 – these clauses have been inserted to ensure that the Commonwealth must obtain various licences to take water or to do certain work, that the Commonwealth complies with the conditions of those licences, and that the Commonwealth must comply with directions in relation to certain activities. Previously these provisions were drafted as offences, meaning the provisions did not apply to the Commonwealth as the Commonwealth is not subject to offence/disciplinary provisions in the Water Resources Act.

Clauses 6, 8, 9, 10, 12, 17, 19, 20, 21, 23, 24, 26, 33, 34, 35, 36, 37, 38, 39, 40, 41 – these clauses are amendments to facilitate the relocation of the Water Resources Act offence provisions into a new part 9A (Offences). The offence provisions have been consolidated into one part in response to the Commonwealth not being bound by offence provisions.

Clauses 42 – inserts the definition of ‘national land’ (as detailed in Clause 4 – New Section 7A) from the Legislation Act, dictionary, part 1 (meaning of commonly used terms).

Clauses 1.1 – the new section numbers are a result of the relocation of the offences in the Water Resources Act to the new part 9A.

Clauses 1.2 and 1.3 – these section headings in the Regulations need to be changed due to the amendments to the Water Resources Act.

Note: The Commonwealth has inserted a new provision in the *Australian Capital Territory (Self-Government) Regulations 1989* (Cwlth) so that the *Water Resources Act 2007* (minus the offence/enforcement provisions) will bind the Crown in right of the Commonwealth. As the Commonwealth will not be bound to the offence/enforcement provisions additional sub-sections have been added to sections of the Act to apply requirements of the Act to all persons including the Commonwealth.