

Australian Capital Territory

Water Resources Amendment Act 2023

A2023-26

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Australian Capital Territory

Water Resources Amendment Act 2023

A2023-26

An Act to amend the [Water Resources Act 2007](http://www.legislation.act.gov.au/a/2007-19), and for other purposes

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

1 Name of Act

This Act is the *Water Resources Amendment Act 2023*.

2 Commencement

This Act commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](http://www.legislation.act.gov.au/a/2001-14), s 75 (1)).

3 Legislation amended

This Act amends the [Water Resources Act 2007](http://www.legislation.act.gov.au/a/2007-19).

Note This Act also amends other legislation (see sch 1).

4 Section 13

substitute

13 Environmental flow guidelines—preparation by director‑general

 (1) Before the Minister approves environmental flow guidelines, the director-general must prepare draft environmental flow guidelines for the Minister’s approval.

 (2) In preparing draft guidelines, the director-general—

 (a) must consider principally the ecological needs of aquatic ecosystems; and

 (b) may consider the environmental, economic and social impact of the guidelines.

 (3) The director-general must consult with the authority in preparing the draft guidelines.

5 Environmental flow guidelines—consultation
Section 14 (1) and (4)

omit

authority

substitute

director-general

6 Section 14 (5)

substitute

 (5) The director-general must consider any written comments received in the consultation period and may revise the draft guidelines in accordance with the comments as the director-general considers appropriate.

7 Environmental flow guidelines—submission to Minister
Section 15 (1)

omit

The authority

substitute

The director-general

8 Section 15 (1) (a)

omit

the authority’s

substitute

the director-general’s

9 Section 15 (1) (b), (2) (b) and (3)

omit

the authority

substitute

the director-general

10 Section 15 (3) (b)

omit

the authority’s

substitute

the director-general’s

11 Amounts of water available from areas
Section 17 (2) (c)

substitute

 (c) any assessment undertaken by the director-general to establish sustainable yields for the water management area.

12 Sections 64 and 65

substitute

64 Functions—director-general and authority

 (1) The director-general has the following functions under this Act:

 (a) to keep the condition of the Territory’s water resources under review;

 (b) to lead and coordinate policy development in relation to the Territory’s water resources;

 (c) to compile, maintain and provide information about the condition of the Territory’s water resources;

 (d) to foster public education about management of water resources, including the importance of efficient use of water;

 (e) to progress national water resource measures made under national scheme laws or intergovernmental agreements to which the Territory is a party relating to water resource management;

 (f) to confer and exchange information relating to water resource management with any entity having functions corresponding to the director-general’s functions under a corresponding law;

Examples—information relating to water resource management

water trading, Murray Darling Basin monitoring and evaluation, hydrological modelling

 (g) any other functions given to the director-general under this Act.

 (2) The authority has the following functions under this Act:

 (a) to regulate the use of water from waterways;

 (b) to compile, maintain and provide information about the use of the Territory’s water resources;

 (c) to share the information mentioned in paragraph (b) with a Territory entity if the information is necessary for the entity to carry out its functions;

 (d) to implement national water resource measures made under national scheme laws or intergovernmental agreements to which the Territory is a party relating to water resource protection, regulation and compliance;

 (e) to confer and exchange information relating to water resource protection, regulation and compliance with any entity having functions corresponding to the authority’s functions under a corresponding law;

Examples—information relating to water resource protection, regulation and compliance

water compliance reporting, Bureau of Meteorology data

 (f) any other functions given to the authority under this Act.

 (3) In exercising a function under this Act, the director-general and the authority must—

 (a) have regard to the objects set out in section 6; and

 (b) where appropriate, promote an integrated approach to water resource management, environment protection and water catchment management.

 (4) In this section:

corresponding law means a law of the Commonwealth or a State that corresponds, or substantially corresponds, to this Act.

Note State includes the Northern Territory (see [Legislation Act](http://www.legislation.act.gov.au/a/2001-14), dict, pt 1).

65 Delegation—director-general and authority

 (1) The director-general may delegate their functions under this Act only to a public employee.

 (2) The authority may delegate its functions under this Act to a public employee.

Note For laws about delegations, see the [Legislation Act](http://www.legislation.act.gov.au/a/2001-14), pt 19.4.

13 Coordination group—functions
Section 67B (1) (a)

substitute

 (a) to advise the following on matters relating to water catchment management in the ACT and the Australian capital water catchment region:

 (i) the Minister;

 (ii) the director-general;

14 Section 67B (2)

omit

15 Section 67C

substitute

67C Consideration of coordination group advice

In exercising a function under this Act, the following entities must consider any relevant advice given to the entity by the coordination group:

 (a) the Minister;

 (b) the director-general.

16 New section 67CA

insert

67CA Coordination group—Minister’s directions

 (1) The Minister may direct the coordination group, in writing, to provide advice about a stated water catchment management matter (a Minister’s direction).

 (2) The Minister must give a copy of each Minister’s direction to the director-general.

 (3) If the coordination group is given a Minister’s direction, the coordination group must—

 (a) provide advice about the matter to the Minister; and

 (b) at the same time the advice is provided to the Minister—give a copy of the advice to the director-general.

17 Annual report by coordination group
New section 67D (1A)

insert

 (1A) The report must include—

 (a) a copy of each Minister’s direction given during the year; and

 (b) a summary of the advice provided to the Minister.

18 Section 67D (5), new definition of Minister’s direction

insert

Minister’s direction—see section 67CA (1).

19 Coordination group—membership
Section 67E (1) and note

substitute

 (1) The coordination group is made up of not more than 12 members appointed by the Minister.

 (1A) The Minister must ensure that the group includes—

 (a) at least 1 member who is a public servant; and

 (b) at least 1 member who is not a public servant.

20 New section 67E (2A)

insert

 (2A) The Minister must appoint a chair and deputy chair of the coordination group from the members appointed under subsection (1).

21 Section 67E (4), notes 1 to 3

substitute

Note For laws about appointments, see the [Legislation Act](http://www.legislation.act.gov.au/a/2001-14), pt 19.3.

22 Coordination group—quorum at meetings
Section 67H

omit

5 members of the group

substitute

half of the group members

23 Part 8

substitute

Part 8 Assessment and investigation of water resources

68 Water resources monitoring and assessment—director‑general

 (1) The director-general must, as far as possible, continuously monitor and assess the condition of the Territory’s water resources.

 (2) For subsection (1), the director-general may do any of the following:

 (a) construct, repair, alter or remove gauging, recording and monitoring stations or drill bores;

 (b) systematically monitor—

 (i) stream flow; and

 (ii) weather and climate; and

 (iii) waterways and ground waters;

 (c) operate or maintain gauging, recording and monitoring stations;

 (d) carry out investigations to determine the existence, location and nature of bores and water structures;

 (e) monitor bores and water structures;

 (f) sample and analyse water.

68A Power to enter land for water resources monitoring and assessment

 (1) For section 68 (2), the director-general may, at any reasonable time, enter land—

 (a) to take measurements and carry out work that is reasonably required; and

 (b) with any people and equipment that is reasonably required.

Note The [Criminal Code](http://www.legislation.act.gov.au/a/2002-51), s 361 and s 363 contain offences for obstructing Territory public officials.

 (2) However, the director-general must not enter land to do work mentioned in section 68 (2) (a) unless, at least 14 days before the entry day, the director-general gave the owner or occupier of the land written notice (a works notice) of—

 (a) the land proposed to be entered; and

 (b) the work proposed to be done; and

 (c) any vehicle, plant or machinery proposed to be used to carry out the work.

 (3) The director-general may, at any reasonable time, enter land on which work mentioned in a works notice is being, or has been, done—

 (a) for the purpose of doing something mentioned in section 68 (2) (b), (c), (d), (e) or (f); and

 (b) with any people and equipment that is reasonably required.

 (4) This section does not authorise entry into a part of premises that is being used for residential purposes other than with the occupier’s consent.

 (5) A person who enters land under this section is not authorised to remain on the land if, on request by the occupier of the land, the person does not produce a certificate signed by the director-general for this section that the person is authorised to carry out an activity mentioned in the certificate.

68B Water resources investigations—authority

 (1) The authority may investigate the use of water taken from waterways for the purposes of protecting the Territory’s water resources and ensuring compliance with this Act.

 (2) For subsection (1), the authority may do anything mentioned in section 68 (2).

Note The authority is an authorised officer (see [Environment Protection Act 1997](http://www.legislation.act.gov.au/a/1997-92), s 14 (2)), and authorised officers have powers, such as to enter premises and to seize things, under this Act, div 10.2 (Powers of authorised officers).

69 Cooperation etc with other jurisdictions

 (1) For this part—

 (a) the director-general may liaise and work in cooperation with the Commonwealth or a State in relation to the assessment and monitoring of water resources, including in relation to policy development, in which there is a shared interest; and

 (b) the authority may liaise and work in cooperation with the Commonwealth or a State in relation to the investigation of the use of water taken from waterways, including in relation to protecting water resources and ensuring compliance with this Act or a corresponding law, in which there is a shared interest.

 (2) In this section:

corresponding law means a law of the Commonwealth or a State that corresponds, or substantially corresponds, to this Act.

Note State includes the Northern Territory (see [Legislation Act](http://www.legislation.act.gov.au/a/2001-14), dict, pt 1).

70 Things fixed to land by director-general or authority

 (1) This section applies if, in the exercise of a function under this part, the director-general or the authority attaches anything to land.

 (2) The thing is taken not to be—

 (a) a fixture to the land for the purpose of giving the owner or occupier of the land a proprietary interest in it; or

 (b) an improvement.

24 Compensation for exercise of powers
Section 99 (1) (b) (i)

after

Assessment

insert

and investigation

25 Incorporation of documents
Section 100, notes 1 to 3

substitute

Note The text of an applied, adopted or incorporated law or instrument, whether applied as in force from time to time or at a particular time, is taken to be a notifiable instrument if the operation of the [Legislation Act](http://www.legislation.act.gov.au/a/2001-14), s 47 (5) or (6) is not disapplied (see s 47 (7)).

26 Sections 101 and 102

omit

Schedule 1 Consequential amendments

(see s 3)

Part 1.1 Environment Protection Act 1997

[1.1] New section 61 (ea)

insert

 (ea) if the activity relates to a function of the director-general under the [Water Resources Act 2007](http://www.legislation.act.gov.au/a/2007-19)—any advice of the director‑general in relation to the activity; and

Note The director-general’s functions under the [Water Resources Act 2007](http://www.legislation.act.gov.au/a/2007-19) are set out in that [Act](http://www.legislation.act.gov.au/a/2007-19), s 64.

[1.2] Dictionary, definition of authorised officer

omit

section 14 (3)

substitute

section 14

Part 1.2 Utilities Act 2000

[1.3] Section 54 (1) (b)

substitute

 (b) give a copy of the environmental section of the report to—

 (i) the environment protection authority; and

 (ii) the director-general responsible for the [Water Resources Act 2007](http://www.legislation.act.gov.au/a/2007-19).

Part 1.3 Utilities (Water Conservation) Regulation 2006

[1.4] Section 5 (1) (c) etc

omit

the environment protection authority

substitute

the director-general responsible for the [Water Resources Act 2007](http://www.legislation.act.gov.au/a/2007-19)

in

 section 5 (1) (c)

 section 9 (1) (d)

 section 12 (4) (a)

[1.5] Dictionary, note 2

omit

 environment protection authority

substitute

 director-general (see s 163)

Part 1.4 Water Resources Regulation 2007

[1.6] Sections 10A and 11

omit

Endnotes

1 Presentation speech

 Presentation speech made in the Legislative Assembly on 29 March 2023.

2 Notification

 Notified under the [Legislation Act](http://www.legislation.act.gov.au/a/2001-14) on 7 July 2023.

3 Republications of amended laws

 For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au/).

I certify that the above is a true copy of the Water Resources Amendment Bill 2023, which was passed by the Legislative Assembly on 27 June 2023.

Acting Clerk of the Legislative Assembly

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