



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*, 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](#), s 75 (1)).

3 Legislation amended

This Act amends the [Water Resources Act 2007](#).

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](#), 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](#), 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](#), 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](#), 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](#), 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](#), 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](#), 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](#)—any advice of the director-general in relation to the activity; and

Note The director-general's functions under the [Water Resources Act 2007](#) are set out in that [Act](#), 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](#).

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](#)

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](#) on 7 July 2023.

3 Republications of amended laws

For the latest republication of amended laws, see 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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