

2023

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Water, Energy and Emissions Reduction)

Water Resources Amendment Bill 2023

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(As presented)

(Minister for Water, Energy and Emissions Reduction)

Water Resources Amendment Bill 2023

A Bill for

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 **1 Name of Act**

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

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 2007](#).

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

10 **4 Section 13**

11 *substitute*

12 **13 Environmental flow guidelines—preparation by**
13 **director-general**

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

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

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

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

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

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

3 *omit*
4 authority
5 *substitute*
6 director-general

7 **6 Section 14 (5)**

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

13 **7 Environmental flow guidelines—submission to Minister**
14 **Section 15 (1)**

15 *omit*
16 The authority
17 *substitute*
18 The director-general

19 **8 Section 15 (1) (a)**

20 *omit*
21 the authority's
22 *substitute*
23 the director-general's

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

2 *omit*

3 the authority

4 *substitute*

5 the director-general

6 **10 Section 15 (3) (b)**

7 *omit*

8 the authority's

9 *substitute*

10 the director-general's

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

13 *substitute*

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

16 **12 Sections 64 and 65**

17 *substitute*

18 **64 Functions—director-general and authority**

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

20 (a) to keep the condition of the Territory's water resources under
21 review;

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

- 1 (c) to compile, maintain and provide information about the
2 condition of the Territory's water resources;
- 3 (d) to foster public education about management of water resources,
4 including the importance of efficient use of water;
- 5 (e) to progress national water resource measures made under
6 national scheme laws or intergovernmental agreements to which
7 the Territory is a party relating to water resource management;
- 8 (f) to confer and exchange information relating to water resource
9 management with any entity having functions corresponding to
10 the director-general's functions under a corresponding law;
- 11 **Examples—information relating to water resource management**
12 water trading, Murray Darling Basin monitoring and evaluation, hydrological
13 modelling
- 14 (g) any other functions given to the director-general under this Act.
- 15 (2) The authority has the following functions under this Act:
- 16 (a) to regulate the use of water from waterways;
- 17 (b) to compile, maintain and provide information about the use of
18 the Territory's water resources;
- 19 (c) to share the information mentioned in paragraph (b) with a
20 Territory entity if the information is necessary for the entity to
21 carry out its functions;
- 22 (d) to implement national water resource measures made under
23 national scheme laws or intergovernmental agreements to which
24 the Territory is a party relating to water resource protection,
25 regulation and compliance;

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

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

7 water compliance reporting, Bureau of Meteorology data

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

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

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

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

- 15 (4) In this section:

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

18 *Note* *State* includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

19 **65 Delegation—director-general and authority**

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

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

24 *Note* For laws about delegations, see the [Legislation Act](#), pt 19.4.

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

3 *substitute*

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

7 (i) the Minister;

8 (ii) the director-general;

9 **14 Section 67B (2)**

10 *omit*

11 **15 Section 67C**

12 *substitute*

13 **67C Consideration of coordination group advice**

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

17 (a) the Minister;

18 (b) the director-general.

1 **16 New section 67CA**

2 *insert*

3 **67CA Coordination group—Minister’s directions**

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

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

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

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

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

14 **17 Annual report by coordination group**
15 **New section 67D (1A)**

16 *insert*

17 (1A) The report must include—

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

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

20 **18 Section 67D (5), new definition of *Minister’s direction***

21 *insert*

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

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

3 *substitute*

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

6 (1A) The Minister must ensure that the group includes—

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

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

9 **20 New section 67E (2A)**

10 *insert*

11 (2A) The Minister must appoint a chair and deputy chair of the
12 coordination group from the members appointed under
13 subsection (1).

14 **21 Section 67E (4), notes 1 to 3**

15 *substitute*

16 *Note* For laws about appointments, see the [Legislation Act](#), pt 19.3.

17 **22 Coordination group—quorum at meetings**
18 **Section 67H**

19 *omit*

20 5 members of the group

21 *substitute*

22 half of the group members

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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.

1 **68A Power to enter land for water resources monitoring and**
2 **assessment**

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

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

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

8 *Note* The [Criminal Code](#), s 361 and s 363 contain offences for obstructing
9 Territory public officials.

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

14 (a) the land proposed to be entered; and

15 (b) the work proposed to be done; and

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

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

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

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

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

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

6 **68B Water resources investigations—authority**

- 7 (1) The authority may investigate the use of water taken from waterways
8 for the purposes of protecting the Territory’s water resources and
9 ensuring compliance with this Act.
- 10 (2) For subsection (1), the authority may do anything mentioned in
11 section 68 (2).

12 *Note* The authority is an authorised officer (see [Environment Protection](#)
13 [Act 1997](#), s 14 (2)), and authorised officers have powers, such as to enter
14 premises and to seize things, under this Act, div 10.2 (Powers of
15 authorised officers).

16 **69 Cooperation etc with other jurisdictions**

- 17 (1) For this part—
- 18 (a) the director-general may liaise and work in cooperation with the
19 Commonwealth or a State in relation to the assessment and
20 monitoring of water resources, including in relation to policy
21 development, in which there is a shared interest; and
- 22 (b) the authority may liaise and work in cooperation with the
23 Commonwealth or a State in relation to the investigation of the
24 use of water taken from waterways, including in relation to
25 protecting water resources and ensuring compliance with this
26 Act or a corresponding law, in which there is a shared interest.

- 27 (2) In this section:

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

30 *Note* ***State*** includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

- 1 **70** **Things fixed to land by director-general or authority**
- 2 (1) This section applies if, in the exercise of a function under this part,
- 3 the director-general or the authority attaches anything to land.
- 4 (2) The thing is taken not to be—
- 5 (a) a fixture to the land for the purpose of giving the owner or
- 6 occupier of the land a proprietary interest in it; or
- 7 (b) an improvement.

8 **24** **Compensation for exercise of powers**

9 **Section 99 (1) (b) (i)**

10 *after*

11 Assessment

12 *insert*

13 and investigation

14 **25** **Incorporation of documents**

15 **Section 100, notes 1 to 3**

16 *substitute*

17 *Note* The text of an applied, adopted or incorporated law or instrument,

18 whether applied as in force from time to time or at a particular time, is

19 taken to be a notifiable instrument if the operation of the [Legislation Act](#),

20 s 47 (5) or (6) is not disapplied (see s 47 (7)).

21 **26** **Sections 101 and 102**

22 *omit*

1 **Schedule 1 Consequential amendments**

2 (see s 3)

3 **Part 1.1 Environment Protection Act 1997**

4 **[1.1] New section 61 (ea)**

5 *insert*

6 (ea) if the activity relates to a function of the director-general under
7 the *Water Resources Act 2007*—any advice of the
8 director-general in relation to the activity; and

9 *Note* The director-general's functions under the *Water Resources*
10 *Act 2007* are set out in that *Act*, s 64.

11 **[1.2] Dictionary, definition of *authorised officer***

12 *omit*

13 section 14 (3)

14 *substitute*

15 section 14

16 **Part 1.2 Utilities Act 2000**

17 **[1.3] Section 54 (1) (b)**

18 *substitute*

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

20 (i) the environment protection authority; and

21 (ii) the director-general responsible for the *Water Resources*
22 *Act 2007*.

1 **Part 1.3** **Utilities (Water Conservation)**
2 **Regulation 2006**

3 **[1.4] Section 5 (1) (c) etc**

4 *omit*

5 the environment protection authority

6 *substitute*

7 the director-general responsible for the *Water Resources Act 2007*

8 *in*

- 9 • section 5 (1) (c)
10 • section 9 (1) (d)
11 • section 12 (4) (a)

12 **[1.5] Dictionary, note 2**

13 *omit*

- 14 • environment protection authority

15 *substitute*

- 16 • director-general (see s 163)

17 **Part 1.4** **Water Resources**
18 **Regulation 2007**

19 **[1.6] Sections 10A and 11**

20 *omit*

Endnotes

1 Presentation speech

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

2 Notification

Notified under the [Legislation Act](#) on 2023.

3 Republications of amended laws

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

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