



Australian Capital Territory

# Utilities (Electricity Restrictions) Regulation 2004

**Subordinate Law SL2004-61**

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The Australian Capital Territory Executive makes the following regulation under the *Utilities Act 2000*.

Dated 20 December 2004.

JON STANHOPE  
Minister

TED QUINLAN  
Minister

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**Utilities Act 2000**

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## Part 1 Preliminary

### 1 Name of regulation

This regulation is the *Utilities (Electricity Restrictions) Regulation 2004*.

### 2 Commencement

This regulation 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 Dictionary

The dictionary at the end of this regulation is part of this regulation.

*Note 1* The dictionary at the end of this regulation defines certain terms used in this regulation, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition '*territory controller*—see the *Emergencies Act 2004*, dictionary' means that the term 'territory controller' is defined in that dictionary and the definition applies to this regulation.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire regulation unless the definition, or another provision of the regulation, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

### 4 Notes

A note included in this regulation is explanatory and is not part of this regulation.

*Note* See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

**5 Offences against regulation—application of Criminal Code etc**

Other legislation applies in relation to offences against this regulation.

*Note 1 Criminal Code*

The Criminal Code, ch 2 applies to all offences against this regulation (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

*Note 2 Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

## Part 2 Electricity restriction scheme

### 6 Approved electricity restriction scheme

- (1) The Minister may, in writing, approve a scheme to restrict the use of electricity (the *approved electricity restriction scheme*) if satisfied that the scheme is necessary to—
  - (a) facilitate, as far as practicable, the provision of efficient, reliable and sustainable electricity services by utilities to consumers; or
  - (b) protect the interests of consumers; or
  - (c) manage the safety and security of the electricity network; or
  - (d) protect public safety.
- (2) An approval is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

### 7 Scope of electricity restriction scheme

- (1) The Minister may approve an electricity restriction scheme under section 6 only if the scheme provides for—
  - (a) the imposition of restrictions in different stages; and
  - (b) a range of restriction measures that may be imposed under each stage.
- (2) An approved electricity restriction scheme may include provision for a utility to exempt a consumer from an electricity restriction if the restriction would cause the consumer serious detriment.

**8 Public inspection of scheme documents**

- (1) The chief executive must, in writing, name a place where copies of a document or documents setting out the approved electricity restriction scheme may be inspected.
- (2) An instrument under subsection (1) is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

**9 Declaration of electricity restriction stages**

- (1) The Minister may, in writing, declare that a stage of an approved electricity restriction scheme is in force.
- (2) The declaration must be in accordance with the approved electricity restriction scheme.
- (3) The declaration must state—
  - (a) the stage to which it applies; and
  - (b) the restriction measures, including their duration or maximum duration, that may be imposed under that stage; and
  - (c) that a utility may, under section 10, impose those restriction measures; and
  - (d) the period (not longer than 3 months) the declaration is in force.
- (4) To remove any doubt, the Minister may make more than 1 declaration in relation to the same stage of electricity restrictions.



- (5) A declaration is a notifiable instrument.

*Note 1* A notifiable instrument must be notified under the Legislation Act.

*Note 2* The power to make a declaration includes the power to revoke the declaration (see Legislation Act, s 46).

## **10 Utility may impose electricity restriction measures**

- (1) A utility may, in writing, impose electricity restriction measures under an electricity restriction stage in force under section 9.
- (2) The imposition must be in accordance with the approved electricity restriction scheme.
- (3) As soon as possible after imposing electricity restriction measures, the utility must ensure that public notice of the imposition is—
  - (a) broadcast in the ACT by television or radio; and
  - (b) published on the utility's internet web site; and
  - (c) published in a daily newspaper.
- (4) To remove any doubt, the utility may make more than 1 imposition of electricity restriction measures under an electricity restriction stage in force under section 9.
- (5) A failure to comply with subsection (3) does not affect the validity of the imposition.

## **11 Reports on electricity restrictions**

- (1) The chief executive may require a utility to give the chief executive reports about the effectiveness and operation of restrictions imposed under an approved electricity restriction scheme.
- (2) The requirement may include requirements about the content, frequency and timing of reports.
- (3) A utility must comply with the requirement.

**12 State of emergency**

Restrictions imposed under this regulation have effect subject to the exercise of a function by the territory controller under the *Emergencies Act 2004*.

## Part 3 Enforcement

### 13 Meaning of *electricity restriction* for pt 3

In this part:

*electricity restriction* means an electricity restriction imposed under section 9 (Declaration of electricity restriction stages).

### 14 Contravening electricity restrictions

- (1) A person commits an offence if—
  - (a) the person is the occupier of premises; and
  - (b) electricity is used on the premises in contravention of an electricity restriction; and
  - (c) the electricity restriction has been notified by public notice under section 10 (Utility may impose electricity restriction measures).

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) It is a defence to a prosecution for an offence against this section if the defendant proves that the defendant did not know the electricity restriction had been imposed.

### 15 Directions by authorised people

- (1) This section applies if an authorised person believes on reasonable grounds that—
  - (a) electricity has been used, or is being used, on premises in contravention of an electricity restriction; or
  - (b) electricity has been used on premises in contravention of an electricity restriction and that a further contravention is likely.

- (2) The authorised person may give the occupier of the premises a written direction to take action stated in the direction to ensure that electricity is used in accordance with the electricity restrictions.
- (3) It is sufficient if the direction is addressed to ‘the occupier’ of the premises.
- (4) The direction may state a period in which the person must comply with the direction.
- (5) The direction may also be given—
  - (a) by leaving it in the letterbox at the premises; or
  - (b) by securing it in a conspicuous place at the premises.

*Note* For other ways in which the direction may be given, see the Legislation Act, pt 19.5.

## **16 Contravening directions of authorised person**

- (1) A person commits an offence if—
  - (a) an authorised person has given the person a direction under section 15; and
  - (b) the person contravenes the direction.Maximum penalty: 10 penalty units.
- (2) An offence against this section is a strict liability offence.

## **17 Power to enter premises**

- (1) This section applies if an authorised person believes on reasonable grounds that electricity has been used, or is being used, on premises in contravention of an electricity restriction.
- (2) For this regulation, an authorised person may enter any part of the premises (other than a part used for residential purposes) at any reasonable time, and—
  - (a) inspect the premises and anything on the premises; and

- (b) take action under section 19 (Ending unauthorised use of electricity).
- (3) For subsection (2), the authorised person may enter the premises with any necessary assistance and force.

### **18 Production of identity card**

An authorised person must not remain on premises entered under this part if, when asked by the occupier, the authorised person does not produce the authorised person's identity card for inspection by the occupier.

### **19 Ending unauthorised use of electricity**

- (1) An authorised person may arrange to stop the supply of electricity from the electricity network to premises if the person believes on reasonable grounds that a person is contravening a direction under section 15 (Directions by authorised people); or
- (2) An authorised person may also arrange to stop the supply of electricity from the electricity network to premises if the authorised person believes on reasonable grounds that—
  - (a) electricity is being used on premises in contravention of an electricity restriction; and
  - (b) a direction under section 15 is unlikely to end the contravention because, for example—
    - (i) the premises are unoccupied (whether temporarily or permanently); or
    - (ii) after making reasonable inquiries, the authorised person cannot find the occupier of the premises; or
    - (iii) the occupier is unlikely to comply with the direction; and

- (c) the contravention is likely to continue unless action is taken under this section.

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) The authorised person must give the occupier of the premises a written notice stating that the supply of electricity will be stopped.
- (4) It is sufficient if the notice is addressed to ‘the occupier’ of the premises.
- (5) The notice may also be given—
- (a) by leaving it in the letterbox at the premises; or
  - (b) by securing it in a conspicuous place at the premises.

*Note* For other ways in which the direction may be given, see the Legislation Act, pt 19.5.

## **20 Damage etc to be minimised**

- (1) In the exercise, or purported exercise, of a function under this regulation, an authorised person must take reasonable steps to ensure that the authorised person, and anyone helping the authorised person, causes as little inconvenience, detriment and damage as is practicable.
- (2) If an authorised person, or anyone helping an authorised person, damages anything in the exercise, or purported exercise, of a function under this regulation, the authorised person must give written notice of the particulars of the damage to the person whom the authorised person believes is the owner of the thing.
- (3) It is sufficient if the notice is addressed to ‘the occupier’ of the premises where the damage happened.
- (4) The notice may also be given—

- (a) by leaving it in the letterbox at the premises where the damage happened; or
- (b) by securing it in a conspicuous place at those premises.

*Note* For other ways in which the direction may be given, see the Legislation Act, pt 19.5.

## **21 Immunity from Liability**

- (1) A utility, an authorised person, a person helping an authorised person or anyone acting under the direction of a utility, is not liable for anything done or omitted to be done honestly—
  - (a) in the exercise of a function under this regulation; or
  - (b) in the reasonable belief that the act or omission was in the exercise of a function under this regulation.
- (2) Any liability that, apart from subsection (1), would attach to a person attaches instead to the Territory.

## Dictionary

(see s 3)

*Note 1* The Legislation Act contains definitions and other provisions relevant to this regulation.

*Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- contravene
- Minister (see s 162).

*Note 3* Terms used in this regulation have the same meaning that they have in the *Utilities Act 2000* (see Legislation Act, s 148.) For example, the following terms are defined in the *Utilities Act 2000*, dict:

- authorised person
- premises.

***approved electricity restriction scheme***—see section 6.

***electricity restriction***, for part 3 (Enforcement)—see section 13.

***identity card*** means an identity card issued under section 115 of the Act identifying a person as an authorised person for this regulation.

***territory controller***—see the *Emergencies Act 2004*, dictionary.

***utility*** means electricity distributor.



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## Endnotes

**1 Notification**

Notified under the Legislation Act on 21 December 2004.

**2 Republications of amended laws**

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

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