Australian Capital Territory

Environment Protection Act 1997

A1997-92

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About this republication

The republished law

This is a republication of the *Environment Protection Act 1997* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 3 June 2015. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 3 June 2015.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register (www.legislation.act.gov.au). For more information, see the home page for this law on the register.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is $150 for an individual and $750 for a corporation (see *Legislation Act 2001*, s 133).

Australian Capital Territory

Environment Protection Act 1997

Contents

Australian Capital Territory

Environment Protection Act 1997

An Act to provide for the protection of the environment, and for related purposes

Part 1 Preliminary

1 Name of Act

This Act is the *Environment Protection Act 1997.*

3 Dictionary

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

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

For example, the signpost definition '***development***—see the *Planning and Development Act 2007*, section 7.' means that the term 'development' is defined in that section and the definition applies to this Act.

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

3A Notes

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

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

3B Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 *Criminal Code*

The Criminal Code, ch 2 applies to the following offences against this Act (see Code, pt 2.1):

- s 92 (Fuel sales—provision of information)
- s 92A (Confidential commercial information must not be disclosed)
- s 136K (Contravention of enforceable undertakings)

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***).

Certain provisions of the Criminal Code, ch 2 (the ***applied provisions***) apply to all offences against this Act. The applied provisions include geographical application provisions (see Code, s 10).

Note 2 *Penalty units*

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

3C Objects of Act

(1) The objects of this Act are to—

(a) protect and enhance the quality of the environment; and

(b) prevent environmental degradation and risk of harm to human health by promoting the following:

(i) pollution prevention;

(ii) clean production technology;

(iii) reuse and recycling of materials;

(iv) waste minimisation programs; and

(c) require people engaging in polluting activities to make progressive environmental improvements; and

(d) achieve effective integration of environmental, economic and social considerations in decision-making processes; and

(e) facilitate the implementation of national environment protection measures under national scheme laws; and

(f) provide for the monitoring and reporting of environmental quality on a regular basis; and

(g) ensure that contaminated land is managed having regard to human health and the environment; and

(h) coordinate activities needed to protect, restore or improve the ACT environment; and

(i) establish a process for investigating and, where appropriate, remediating land areas where contamination is causing or is likely to cause a significant risk—

(i) of harm to human health; or

(ii) of material environmental harm or serious environmental harm.

(2) In this section:

national scheme law means—

(a) the *National Environment Protection Council Act 1994* (Cwlth); and

(b) the *National Environment Protection Council Act 1994*.

3D Principles applying to Act

(1) A person administering this Act must have regard to the following principles where relevant:

(a) the principle of a shared responsibility for the environment, including through—

(i) acknowledging environmental needs in economic and social decision-making; and

(ii) public education about and public involvement in decisions about protection, restoration and enhancement of the environment;

(b) the precautionary principle;

(c) the inter-generational equity principle;

(d) the waste minimisation principle;

(e) the polluter pays principle.

(2) In this section:

inter-generational equity principle means that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations.

polluter pays principle means that polluters should bear the appropriate share of the costs that arise from their activities.

precautionary principle means that, if there is a threat of serious or irreversible environmental damage, a lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

waste minimisation principle means controlling the generation, storage, collection, transportation, treatment and disposal of waste to reduce, minimise and, where practical, eliminate harm to the environment.

4 Meaning of ***contaminated*** land

(1) In this Act:

contaminated, in relation to land, means the presence in, on or under the land, or a building or structure on the land, of a substance at a concentration above the concentration at which the substance is normally present in, on or under land, or a building or structure on land, in the same locality, if the presence causes, or is likely to cause either or both of the following:

(a) a risk of harm to human health;

(b) a risk of environmental harm.

(2) For subsection (1), land may be ***contaminated*** even if it became contaminated partly or entirely by the migration of contaminants into, onto or under the land from other land.

(3) However, land is not ***contaminated*** only because in any surface water standing or running on the land a substance is present in a concentration above the concentration at which the substance is normally present in, on or under land, or a building or structure on land, in the same locality.

5 Things taken to have impact causing environmental harm

For this Act, a thing mentioned in the dictionary, definition of ***pollutant***, paragraphs (a) to (e) is taken to cause environmental harm if—

(a) the measure of the pollutant entering the environment exceeds the prescribed measure; or

(b) the pollutant entering the environment is a prescribed pollutant.

6 Relationship with Emergencies Act

(1) This Act does not apply to the exercise or purported exercise by a relevant person of a function under the *Emergencies Act 2004* for the purpose of protecting life or property, or controlling, extinguishing or preventing the spread of a fire.

(2) In this section:

relevant person means—

(a) the chief officer (fire and rescue); or

(b) any other member of fire and rescue; or

(c) the chief officer (rural fire service); or

(d) any other member of the rural fire service; or

(e) any other person under the control of the chief officer (fire and rescue) or the chief officer (rural fire service); or

(f) a police officer.

7 Construction consistent with certain other laws

(1) This Act must be construed and administered in a way that is consistent with an environment law or a health law unless the contrary intention appears from this Act or that law.

(2) This Act must be taken to be consistent with an environment law or a health law to the extent that it is capable of operating concurrently with that law.

(3) In this section:

environment law means a territory law that has as 1 of its objects or purposes the protection of the environment.

health law means a territory law that has as 1 of its objects or purposes the protection of public health.

8 Limitation of application in relation to certain people and things

(1) This Act does not apply in relation to noise made by or a pollutant emitted into the air by—

(a) a train; or

(b) a Commonwealth jurisdiction aircraft within the meaning of the *Air Services Act 1995* (Cwlth); or

(c) a person using only his or her body; or

(d) an animal; or

(e) a motor vehicle being driven on a road, unless the motor vehicle—

(i) is being driven on the road for the purpose of conducting reliability trials or speed tests; and

(ii) has been exempted under the road transport legislation from the provisions of that legislation about attaching silencers to the exhaust pipes of motor vehicles, rules of the road and speed limits during the trials or tests.

(2) This Act does not apply to environmental harm that results, or is alleged to result solely from the appearance or siting, or both, of a structure (other than a structure naturally occurring).

(3) In this section:

road—see the *Road Transport (Vehicle Registration) Act 1999*.

road transport legislation—see the *Road Transport (General) Act 1999*, section 6.

9 Civil remedies and common law not affected

(1) Except as expressly provided by this Act, nothing in this Act must be taken to affect any civil right or remedy available to a person in relation to conduct to which this Act applies.

(2) Compliance with this Act is not, of itself, evidence that a common law duty of care has been satisfied.

10 Criminal liability of the Territory

The Territory is liable for an offence against this Act.

Part 2 Administration

Division 2.1 Environment Protection Authority

11 Environment Protection Authority

The director-general must appoint a public servant as the Environment Protection Authority.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

12 Authority's functions

(1) The authority's functions are—

(a) to administer this Act; and

(b) any other function given to the authority by this Act or another territory law.

(2) In the exercise of the authority's functions, the authority must have regard to the objects stated in section 2.

Note A provision of a law that gives an entity (including a person) a function also gives the entity the powers necessary and convenient to exercise the function (see Legislation Act, s 196 (1) and dict, pt 1, defs of ***entity*** and ***function***).

13 Delegation by authority

The authority may delegate the authority's functions under this Act or another territory law to—

(a) a public servant; or

(b) an officer or employee of a State or Commonwealth agency, if the functions of the State or Commonwealth agency relate, directly or indirectly, to the protection of the environment in the State or Commonwealth.

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

Note 2 For the making of delegations and the exercise of delegated functions, see the Legislation Act, pt 19.4.

Note 3 In exercising the delegation, the delegate is subject to any conditions, limitations or directions in the instrument making or evidencing the delegation (see Legislation Act, s 239).

14 Authorised officers

(1) The director-general may appoint a public servant as an authorised officer.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

(2) The authority is also an authorised officer.

(3) In addition to the powers given to an authorised officer under this Act, an authorised officer also has powers given to the officer under any other territory law.

15 Analysts

(1) The authority may appoint a person as an analyst for this Act.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

(2) An analyst under the *Public Health Act 1997*, section 15 is also an analyst for this Act.

Note ***Analyst*** includes the government analyst (see *Public Health Act 1997*, dict).

16 Identity cards

(1) The director-general must issue to the authority an identity card that specifies the authority's name and office, and on which appears a recent photograph of the authority.

(2) The authority must issue to an authorised officer an identity card that specifies the authorised officer's name and office, and on which appears a recent photograph of the authorised officer.

(3) The authority must issue to an analyst an identity card that specifies the analyst's name and office, and on which appears a recent photograph of the analyst.

(4) On ceasing to occupy, or to act in—

(a) the office of the authority; or

(b) to occupy, or to act in, an office of authorised officer or analyst;

a person must not, without reasonable excuse, fail to return his or her identity card to the director-general or the authority, as the case may be.

Maximum penalty (subsection (4)): 1 penalty unit.

17 Disclosure of interests

(1) If the authority makes a disclosure about a matter under the *Public Sector Management Act 1994*, section 9 (j), the authority must not, unless the director-general otherwise decides, make a decision in relation to the matter.

(2) Unless the director-general decides that the authority should make a decision in relation to the matter, the director-general must appoint another public servant (the ***acting authority***) to act as the authority for making a decision in relation to the matter.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 217).

(3) The instrument of appointment must state the period for which the acting authority is appointed.

(4) For making a decision in relation to the matter, the acting authority may exercise all the functions of the authority.

(5) For this Act, a decision made by the acting authority is taken to have been made by the authority.

(6) This section does not prevent the authority from continuing to exercise the functions of the authority in relation to any other matter during the period for which the acting authority is appointed.

18 Legal immunity

(1) No civil or criminal proceedings lie against a person who is, or has been the authority, an authorised officer or an analyst for an act or omission done honestly in the exercise or purported exercise of a function given to the person in that capacity for this Act.

(2) Subsection (1) does not affect any liability that the Territory would, apart from that subsection, have in relation to an act or omission mentioned in that subsection.

(3) The Territory is vicariously liable in relation to a tort committed by a person in the exercise or purported exercise of a function given to the person for this Act, if the exercise or purported exercise is in the course of his or her capacity as a public employee.

Division 2.2 Public inspection of documents

19 Inspection of documents

(1) Subject to section 21, a person may inspect at any reasonable time any of the following documents kept by or on behalf of the authority:

(a) any environmental authorisation granted by the authority including details of the conditions to which the authorisation is subject, the person holding that authorisation and whether the authorisation is in effect;

(b) any environmental improvement plan submitted in compliance with a requirement by the authority;

(c) any emergency plan approved by the authority;

(d) codes of practice accredited under part 5;

(e) any environmental protection agreement entered into by the authority;

(f) any environment protection order;

(g) any document setting out the results of a review of an environmental authorisation;

(h) results of monitoring or testing required by the authority to be conducted under an environmental authorisation, environmental protection agreement or environment protection order;

(i) the list of auditors approved under section 75;

(j) environmental audit reports under division 9.2;

(k) the list of authorised officers;

(l) an order for assessment under section 91C;

(m) an assessment under section 91C (4) (a);

(n) an environmental audit under section 91C (4) (b);

(o) a remediation order under section 91D;

(p) an environmental audit under section 91D (4) (b);

(q) the contaminated sites register;

(r) any document prescribed by regulation.

(2) If a person wishes to inspect a document specified in subsection (1) that is not in the authority's possession, the authority must make arrangements for the person to inspect the document.

20 Copies of documents

(1) A person may, on payment of the reasonable copying costs, obtain a copy of a document specified in section 19 (1).

(2) If a person wishes to obtain a copy of a document specified in section 19 (1) that is not in the authority's possession, the authority must make arrangements for the person to obtain the copy.

21 Exclusion of material

(1) If for this Act, a person provides a document to the authority in relation to—

(a) the grant, variation or review of an environmental authorisation; or

(b) the submission of an environmental improvement plan; or

(c) the approval of an emergency plan; or

(d) the entry into an environment protection agreement; or

(e) the making of an order under section 91C or section 91D; or

(f) the making of an environment protection order; or

(g) setting out the results of monitoring or testing required by the authority to be conducted; or

(h) the submission of an environmental audit report; or

(i) the conduct of an activity to which section 159A applies;

the person who provided the document, or a person whose interests are affected by the provision of the document, may apply to the authority to exclude so much of the document as is specified in the application from inspection by the public under section 19 on the ground that—

(j) the disclosure would reveal a trade secret; or

(k) the disclosure would, or would reasonably be expected to, adversely affect the person in relation to the lawful business affairs of that person;

and it would not be in the public interest for that part to be published.

(2) An application under subsection (1) must—

(a) be in writing; and

(b) be made at the same time the document to which the application relates is provided to the authority.

(3) If the authority is satisfied that a ground mentioned in subsection (1) exists for the exclusion of a document or part of a document, the authority must exclude that part from each copy of a document made available for public inspection under that subsection.

(4) If a part of a document is excluded from the copy made available for public inspection, each copy must include a statement to the effect that an unspecified part of the document has been excluded for the purpose of protecting the confidentiality of information included in that part.

(5) The authority must not permit the inspection of a document or part of a document under section 19 to which an application under subsection (1) relates—

(a) until 28 days after the authority has made a decision under subsection (1) excluding or refusing to exclude all or part of the document from inspection; or

(b) if an entity has applied to the ACAT for review of the decision—until the application has been decided by the ACAT.

Division 2.3 Register of contaminated sites

21A Register of contaminated sites

(1) The authority must keep a register of contaminated sites.

(2) The register—

(a) may be in electronic form; and

(b) must contain particulars of land in relation to—

(i) an order under section 91C (1) (Order to assess whether land contaminated), section 91D (1) (Order to remediate land) or section 125 (2) or (3) (Environment protection orders); and

(ii) a requirement to commission an environmental audit under section 76 (2) (Authority may require environmental audit); and

(iii) a notice under section 76A (1) (Requests for auditor's statements) not relating to an order or requirement mentioned in subparagraph (i) or (ii).

(3) The authority must make an entry in the register—

(a) for an order under section 91D (1)—if satisfied that the remediation of the land has been conducted as mentioned in section 91D (4) (a); and

(b) for an order under section 125 (2) or (3)—if the authority is no longer satisfied as mentioned in that section, or the order is revoked, whichever happens first.

(4) The authority must remove an entry from the register—

(a) for an entry made under subsection (2) (b) (i) in relation to an order under section 91C (1)—within 60 days after receiving an environmental audit of assessment under section 91C in relation to the entry unless the authority has, within that period, made an order under section 91D (1) or section 125 (2) or (3); or

(b) for an entry made under subsection (2) (b) (ii) or (iii)—within 60 days after receiving the audit required under section 76 (2) or the site audit statement mentioned in section 76A (2) in relation to the entry unless, within that period—

(i) the authority has entered into an environmental protection agreement under section 38 (Entering agreements); or

(ii) a condition or annotation has been included on the crown lease or title for the land in relation to the environmental audit; or

(c) in any case—if the authority decides, based on advice from an approved auditor under section 75 (Certain auditors to be approved), that ongoing management of the land is no longer required.

(5) As soon as practicable after entering particulars of land in the register or removing an entry from the register, the authority must give written notice of the entry or removal to—

(a) the planning and land authority; and

(b) if the land is in a designated area—the national capital authority.

(6) In this section:

designated area—see the *Australian Capital Territory (Planning and Land Management) Act 1988* (Cwlth), section 4, definition of ***Designated Area***.

21B Notification of making of certain entries in register

(1) If the authority makes an entry in the register under section 21A (2) (b) or (3) or removes an entry under section 21A (4), the authority must prepare a notice stating that the entry has been made or removed.

(2) The notice must state the places where a copy of any of the following documents may be inspected or obtained:

(a) an order under section 91C (1);

(b) an assessment under section 91C (4) (a);

(c) an environmental audit under section 91C (4) (b);

(d) an order under section 91D (1);

(e) an environmental audit under section 91D (4) (b).

(3) The notice is a notifiable instrument.

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

(4) The authority must also publish the notice in a daily newspaper.

Part 3 Environmental duties

22 General environmental duty

(1) A person must take the steps that are practicable and reasonable to prevent or minimise environmental harm or environmental nuisance caused, or likely to be caused, by an activity conducted by that person.

(2) In deciding whether a person has complied with the general environmental duty, regard must first be had, and greater weight must be given, to the risk of the environmental harm or environmental nuisance involved in conducting the activity, and, in addition, regard must then be had to—

(a) the nature and sensitivity of the receiving environment; and

(b) the current state of technical knowledge for the activity; and

(c) the financial implications of taking the steps mentioned in subsection (1); and

(d) the likelihood and degree of success in preventing or minimising the environmental harm or environmental nuisance of each of the steps that might be taken; and

(e) other circumstances relevant to the conduct of the activity.

(3) Subject to section 125, section 143 and section 160, failure to comply with the general environmental duty does not of itself—

(a) give rise to a civil right or remedy; or

(b) constitute an offence; or

(c) constitute grounds for action under this Act.

23 Duty to notify of actual or threatened environmental harm

(1) Subject to subsection (2), this section applies to a person conducting an activity who becomes aware that the activity has caused, is causing or is likely to cause serious or material environmental harm from pollution (an ***environmental situation***).

(2) This section does not apply if the environmental harm or potential environmental harm is authorised by or under this Act or another territory law.

(3) As soon as reasonably practicable after becoming aware of the environmental situation, the person must notify the authority of the environmental situation, its nature and the action taken to deal with the situation and any environmental harm that has been caused.

(4) Subject to subsection (5), a person must not, without reasonable excuse, contravene subsection (3).

Maximum penalty: 50 penalty units.

(5) A person is not required to notify the authority of an environmental situation if the person has reasonable grounds for believing that the environmental situation has already come to the notice of an authorised officer.

23A Duty to notify existence of contaminated land

(1) A lessee or occupier of land must notify the authority in writing as soon as practicable after becoming aware that land of which he or she is the lessee or occupier is contaminated in such a way as to present, or to be likely to present—

(a) a significant risk of harm to human health; or

(b) a risk of material environmental harm or serious environmental harm.

(2) A person must not, without reasonable excuse, contravene subsection (1).

Maximum penalty: 50 penalty units.

Part 4 Environment protection policies

23B Definitions for pt 4

In this part:

consultation period—see section 25 (1).

draft environment protection policy includes a draft amendment of an environment protection policy, other than an amendment proposing changes solely of a formal nature.

environment protection policy includes an amendment or repeal of an environment protection policy.

24 Contents

Environment protection policies are documents prepared by the authority, in accordance with this part and relevant best practice, setting out—

(a) guidelines to which the authority must have regard in administering this Act generally or in relation to specified functions of the authority; or

(b) guidelines for effective environment protection and management within a particular industry or for the community generally; or

(c) matters that the authority may take into account in relation to the making of a decision in the exercise of a discretion under this Act.

25 Consultation on draft environment protection policy

(1) If the authority prepares a draft environment protection policy, the authority must also prepare a notice—

(a) containing a brief description of the draft policy; and

(b) stating where copies of the draft policy may be obtained; and

(c) inviting anyone to make suggestions or comments about the draft policy to the authority, at the place stated in the notice, within 40 working days after the day the notice is notified under the Legislation Act (the ***consultation period***).

(2) The notice is a notifiable instrument.

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

(3) The authority must also publish the notice in a daily newspaper.

(4) During the consultation period, the authority must make copies of the draft environment protection policy available for inspection in accordance with the notice.

(5) The authority must also send a copy of a draft policy, without charge, to—

(a) the Conservation Council of the South-East Region and Canberra (Inc.); and

(b) the Canberra Business Council Inc.

26 Consideration of suggestions etc and revision of draft environment protection policy

(1) The authority must consider the suggestions and comments made to it during the consultation period about the draft environment protection policy.

(2) The authority may, in writing, revise the draft environment protection policy in accordance with any of the suggestions or comments.

27 Making of environment protection policy

(1) After complying with section 26 in relation to the draft environment protection policy, the authority may submit the draft policy (as revised, if at all, under that section) to the Minister for consent to make the policy.

(2) If the Minister consents, the authority must make the draft policy as an environment protection policy.

28 Notification of environment protection policies etc

(1) An environment protection policy is a notifiable instrument.

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

(2) If an environment protection policy is made, a notice must also be published in a daily newspaper—

(a) containing a brief description of the policy; and

(b) stating when the policy takes effect; and

(c) stating where the policy may be inspected.

29 Inspection

A person may inspect an environment protection policy at the principal office of the authority at any time when the office is open for business.

30 Legal character

Despite any other territory law, an environment protection policy—

(a) must be taken for all purposes to be an instrument of an administrative character; and

(b) must not be taken for any purpose to be an instrument of a legislative character.

Part 5 Accredited codes of practice

31 Accrediting codes of practice

(1) The Minister may accredit a code of practice that sets out ways of achieving compliance with the general environmental duty when—

(a) a specified activity or a group of related activities; or

(b) some or all of the activities carried on within a particular industry;

is conducted that causes or is likely to cause environmental harm.

(2) The Minister may accredit a code of practice under subsection (1) only if satisfied that the code has been prepared in consultation with people or organisations representing those conducting an activity or carrying on the industry to which the code relates, and the public.

(3) A code of practice accredited under subsection (1) is a disallowable instrument.

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

32 Notification of accredited codes of practice

(1) Within 10 working days after the day an accredited code of practice is notified under the Legislation Act, the Minister must publish notice of the accreditation in a daily newspaper.

(2) A notice under subsection (1) must contain a statement to the effect that a copy of the accredited code of practice is available for public inspection in accordance with section 19.

33 Deemed compliance with general environmental duty

A person is taken to have complied with the general environmental duty in conducting an activity if the person has substantially complied with the code of practice accredited under section 31 (1) for the activity.

Part 6 Economic measures

34 Schemes for economic measures

The authority may develop and implement schemes involving economic measures as a means of achieving the objects of this Act, examples of which include bubble licence schemes and tradeable permit schemes.

35 Bubble licences

A bubble licence scheme may include 1 or both of the following:

(a) the determination of the aggregate measure of a pollutant that is permitted to enter the environment as a result of activities conducted by a group of people or on a group of sites;

(b) the apportionment from time to time of the aggregate measure among the members of the group.

36 Tradeable permits

A tradeable permit scheme may include any of the following:

(a) the determination of the aggregate measure of a pollutant that is permitted to enter the environment, whether for the whole of the ACT or a particular part of the ACT;

(b) the creation of tradeable emission permits or credits;

(c) the allocation (whether by sale or otherwise) from time to time of tradeable permits or credits.

37 Regulation may make provision for schemes

(1) A regulation may make provision in relation to schemes under this part, including regulating or prohibiting certain conduct.

(2) A regulation under subsection (1) may be inconsistent with another part of this Act to the extent to which they authorise or prohibit certain conduct that apart from the regulation would not be authorised, and, in the event of an inconsistency, the regulation prevails.

Note A reference to a provision of an Act includes a reference to the statutory instruments made or in force under the provision, including regulations (see Legislation Act, s 104).

Part 7 Environmental protection agreements

38 Entering agreements

(1) Under section 42 (2) (a) or otherwise giving effect to the objects of this Act, the Authority may enter into an environmental protection agreement in relation to an activity with the person who is conducting, or proposing to conduct, the activity.

(2) The authority must give the person in subsection (1) a copy of the agreement.

39 Form and terms of agreements

An environmental protection agreement—

(a) must be in writing executed by the parties to the agreement; and

(b) has effect for a specified period, unless terminated earlier in accordance with the agreement; and

(c) may contain terms providing for any matter that the parties agree is appropriate for furthering the objects of this Act, for example, agreeing—

(i) to take specified action, to comply with an industry standard or code of practice or to comply with other specified standards (including prescribed standards), for the purpose of preventing, minimising or eliminating environmental harm caused or likely to be caused by the activity; or

(ii) to meet progressively higher standards for the prevention, minimisation or elimination of environmental harm caused or likely to be caused by the activity; or

(iii) to provide for how the agreement will operate if there is a change in the person who is conducting the activity; or

(iv) to provide for the consequences of a party breaching the agreement, including the circumstances in which a party may terminate for breach; or

(v) to provide for the circumstances in which and the method by which a party may terminate the agreement; and

Note An example is part of the Act, 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).

(d) may be varied in writing by the parties, including by extending the term of the agreement.

40 Effect of agreements

(1) An environmental protection agreement does not relieve a party to the agreement from any obligation or duty under this Act or another law.

(2) No action or proceeding lies against a party to an environment protection agreement arising out of an act or omission only because it constitutes a breach of the agreement.

41 Notification of environmental protection agreements

(1) If the authority enters into an environmental protection agreement under section 38 (Entering agreements), the authority must prepare a notice stating that the agreement—

(a) has been entered into; and

(b) is available for public inspection under section 19 (Inspection of documents).

(2) The notice is a notifiable instrument.

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

(3) The authority must also publish the notice in a daily newspaper.

(4) The notice must be notified under the Legislation Act, and published in a daily newspaper, within 10 working days after the day the environmental protection agreement is entered into.

(5) The Minister may declare that this section does not apply to an environmental protection agreement if satisfied that the implementation of the agreement—

(a) is not likely to cause environmental harm; or

(b) is likely to cause environmental harm, but not material environmental harm.

(6) A declaration under subsection (5) is a disallowable instrument.

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

Part 8 Environmental authorisations

Division 8.1A Interpretation for pt 8

41A Meaning of *environmental authorisation*

In this part:

environmental authorisation includes an authorisation that is declared under section 67A to be a recognised environmental authorisation to which division 8.2 applies.

Division 8.1 Requirements to hold and comply with an authorisation

42 Conducting prescribed classes of activities

(1) A person must not conduct an activity listed in schedule 1 as a class A activity unless the person holds an environmental authorisation in relation to that activity.

Maximum penalty: 200 penalty units.

(2) A person must not conduct an activity listed in schedule 1 as a class B activity unless the person—

(a) is a party to an environmental protection agreement that is in effect in relation to that activity; or

(b) holds an environmental authorisation in relation to that activity.

Maximum penalty: 200 penalty units.

43 Authority may require environmental authorisation

(1) Subject to subsection (2), the authority may notify a person in writing that the person is not to conduct, or continue to conduct, a specified activity unless the person holds an environmental authorisation in relation to that activity.

(2) The authority may notify a person under subsection (1) if the authority has reasonable grounds for believing—

(a) that, in conducting the specified activity, the person has contravened, is contravening or is likely to contravene a provision of this Act; and

(b) that, as a result, serious or material environmental harm has happened, is happening or is likely to happen.

(3) A notice under subsection (1) must contain a statement to the effect that, if the person wishes to obtain an environmental authorisation in relation to the specified activity, the person must lodge an application under section 47 on or before the date specified in the notice (not less than 10 working days after the date of the notice).

(4) The authority may, on application or on his or her own initiative, revoke a notice under subsection (1) by written notice specifying the date when the revocation takes effect.

44 Conducting activities other than prescribed activities

(1) A person who is served with a notice under section 43 (1) must not conduct, or continue to conduct, the activity described in the notice unless the person holds an environmental authorisation in relation to that activity.

Maximum penalty: 200 penalty units.

(2) A person does not commit an offence against subsection (1)—

(a) on or before the date specified in the notice by which an application for an environmental authorisation must be lodged; or

(b) if the person lodges an application on or before that date—while a decision on the application is pending; or

(c) if the notice is revoked—on or after the date of revocation.

45 Compliance with authorisation

(1) A person must not contravene an environmental authorisation.

Maximum penalty: 200 penalty units.

(2) If—

(a) a court finds a person guilty of an offence against subsection (1) the circumstances of which were—

(i) that the person caused the entry into the environment of a measure of a pollutant in excess of the measure authorised by the environmental authorisation; and

(ii) that, as a result, environmental harm was caused or likely to be caused; and

(b) the court, in deciding the penalty (if any) to be imposed on the person, considers it relevant to have regard to the environmental harm caused, or likely to be caused, in the commission of the offence;

the court must have regard to all the circumstances of the offence including—

(c) the conditions of the environmental authorisation; and

(d) the environmental harm caused by the excess pollutant.

Division 8.2 Grant, variation, cancellation and suspension

46 Kinds of authorisation

(1) The authority may, on application, grant—

(a) a standard environmental authorisation in relation to any prescribed activity; or

(b) an accredited environmental authorisation in relation to a prescribed activity in relation to which effect has been given or is being given to an environmental improvement initiative; or

(c) a special environmental authorisation in relation to a prescribed activity that is being conducted for the purposes of research and development, including for the purpose of trialling experimental equipment.

(2) In this section:

environment improvement initiative means—

(a) an environmental protection agreement that has as one of its terms a requirement that a party comply with a code of practice accredited under section 31; or

(b) an environmental improvement plan accredited under section 72; or

(c) a prescribed standard of the International Organization for Standardization; or

(d) a prescribed initiative.

47 Application

(1) A person who is conducting or proposing to conduct a prescribed activity may apply to the authority for an environmental authorisation in relation to that activity.

(2) An application—

(a) must specify the kind of environmental authorisation applied for; and

(b) if that kind is an accredited or special environmental authorisation—may specify that in the alternative a standard environmental authorisation is applied for.

Note A fee may be determined under s 165 (Determination of fees etc) for this section.

(3) If the applicant is not the lessee of the parcel of land on which the activity is being conducted, or is proposed to be conducted, the application must be accompanied by the written consent to the making of the application of—

(a) if the land is leased—the lessee; or

(b) if the land is unleased territory land—the Territory; or

(c) if the land is unleased national land—the Commonwealth.

48 Consultation on application for environmental authorisation

(1) If the authority receives an application under section 47 in relation to a prescribed activity (other than a prescribed activity to which a declaration under subsection (6) applies), the authority must prepare a notice—

(a) containing a brief description of the prescribed activity and its location; and

(b) indicating where copies of the application may be obtained; and

(c) inviting anyone to make submissions about the application to the authority, at the place stated in the notice, no later than the date (the ***relevant date***) stated in the notice.

(2) The relevant date must be at least 15 working days after the day the notice is notified under the Legislation Act.

(3) The notice is a notifiable instrument.

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

(4) The authority must also publish the notice in a daily newspaper.

(5) The notice must be notified under the Legislation Act, and published in a daily newspaper, within 10 working days after the day the authority receives the application.

(6) The Minister may declare that this section does not apply to a prescribed activity.

(7) A declaration under subsection (6) is a disallowable instrument.

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

49 Grant

(1) Subject to section 61, the authority must, within 20 working days of the receipt of an application under section 47, or within 20 working days of the date specified in a notice under section 48 (1) (c) and after taking into account any submissions received in response to that notice, as the case requires—

(a) grant an environmental authorisation in relation to a specified activity, for the period and subject to the conditions (if any) specified in the authorisation; or

(b) refuse to grant an environmental authorisation in relation to a specified activity; or

(c) require the applicant to provide further specified information by a specified date, not earlier than 10 working days after the date of the notice; or

(d) request the Minister under section 94 to direct that an EIS be prepared in relation to the possible environmental impact of a specified activity.

(2) If under subsection (1) (c) the authority requires the applicant to provide further information, the authority must within 10 working days after receiving the further information—

(a) grant the environmental authorisation under subsection (1) (a); or

(b) refuse to grant the environmental authorisation under subsection (1) (b); or

(c) make a request of the Minister under subsection (1) (d).

(3) If within 20 working days after the authority makes a request under subsection (1) (d) or (2) (c) the Minister has not acceded to the request, the authority must—

(a) grant the environmental authorisation under subsection (1) (a); or

(b) refuse to grant the environmental authorisation under subsection (1) (b); or

(c) require further information under subsection (1) (c).

(4) If under subsection (3) (c) the authority requires the applicant to provide further information, the authority must within 10 working days after receiving the further information—

(a) grant the environmental authorisation under subsection (1) (a); or

(b) refuse to grant the environmental authorisation under subsection (1) (b).

(5) Subsection (6) applies if—

(a) before the authority makes a decision granting or refusing to grant an environmental authorisation under subsection (1), (2), (3) or (4), the Minister, on the Minister's own initiative under section 94, directs that an EIS be prepared in relation to the possible environmental impact of the specified activity; or

(b) before the authority makes a decision granting or refusing to grant an environmental authorisation under subsection (3), the Minister agrees to a request under subsection (1) (d) or (2) (c).

(6) The authority must, not later than 20 working days after the day the EIS is completed—

(a) grant the environmental authorisation under subsection (1) (a); or

(b) refuse to grant the environmental authorisation under subsection (1) (b).

(7) The authority must give written notice of its decision to anyone who has made a submission in relation to the application under section 48 (1) (c).

Note See s 136 for the requirement to notify other people.

(8) In this section:

completed, for an EIS, means the day the EIS is completed under the *Planning and Development Act 2007*, section 209 as applied by this Act, section 94A.

50 Notification of grant

(1) The authority must notify the applicant of its decision under section 49 granting an environmental authorisation.

(2) A notice under subsection (1) must—

(a) if the authorisation fee is payable by instalments—

(i) specify the amount of each instalment or the rate at which, or the formula or other method by which, each instalment is to be calculated; and

(ii) specify the due date for each instalment; or

(b) specify the amount of the authorisation fee and state that the fee is payable as a lump sum.

(3) The authority must also prepare a notice stating that the authorisation—

(a) has been granted; and

(b) is available for public inspection under section 19 (Inspection of documents).

(4) The notice under subsection (3) is a notifiable instrument.

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

(5) The notice must be notified under the Legislation Act within 10 working days after the day the decision is notified under subsection (1).

(6) The Minister may declare that subsections (3) to (5) do not apply to an authorisation if satisfied that the activity authorised, if carried out in accordance with any conditions stated in the authorisation—

(a) is not likely to cause environmental harm; or

(b) is likely to cause environmental harm, but not material environmental harm.

(7) A declaration under subsection (6) is a disallowable instrument.

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

51 Kinds of conditions

Subject to section 61, the conditions that the authority may impose under section 49 (1) (a) or section 60 are—

(a) conditions for the purposes of ensuring compliance with this Act and relevant best practice, including, for example—

(i) that the applicant commission an environmental audit in relation to a specified matter and submit for consideration by the authority under section 77 a report of the audit; or

(ii) that the applicant prepare and submit to the authority for approval under section 71 a draft environmental improvement plan; or

(iii) that the applicant prepare and submit to the authority for approval under section 84 a draft emergency plan; or

(iv) that the applicant provide to the authority under section 85 a financial assurance of a specified kind and amount; or

(v) that the applicant give to the authority specified information regarding the environmental impact of the activity at any specified time or times during the period of the environmental authorisation; or

(vi) that the applicant conduct specified environmental monitoring or testing; or

(vii) that the applicant comply with a specified provision of an industry standard or code of practice, that relates to minimising environmental harm or likely environmental harm; or

(viii) that the applicant comply with specified prescribed standards; or

(ix) that the applicant not begin the specified activity until the authority is satisfied of specified matters; and

Note An example is part of the Act, 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).

(b) any other conditions the authority considers necessary.

Note A fee may be determined under s 165 (Determination of fees etc) for this section.

52 Period of authorisation

(1) Environmental authorisations may be granted for the following periods:

(a) for a standard environmental authorisation or an accredited environmental authorisation—

(i) an unlimited period; or

(ii) a specified period of not longer than 3 years;

(b) for a special environmental authorisation—a specified period of not longer than 3 years.

(2) A standard environmental authorisation or accredited environmental authorisation granted for an unlimited period—

(a) takes effect on the day after the day when—

(i) if the annual fee under section 53 for the first year of the authorisation is payable by instalments—the first instalment is paid; or

(ii) if the annual fee under section 53 for the first year of the authorisation is payable as a lump sum—the fee is paid; and

(b) has effect until—

(i) the authorisation is cancelled under section 55 or section 63; or

(ii) the authorisation is surrendered under section 66.

(3) An environmental authorisation granted for a specified period—

(a) takes effect on the day after the day when—

(i) if the whole of period fee under section 53 for the authorisation is payable by instalments—the first instalment is paid; or

(ii) if the whole of period fee under section 53 for the authorisation is payable as a lump sum—the fee is paid; and

(b) has effect until—

(i) the end of the period specified in the authorisation; or

(ii) the authorisation is cancelled under section 55 or section 63; or

(iii) the authorisation is surrendered under section 66.

53 Authorisation fees

(1) The holder of a standard environmental authorisation granted for an unlimited period is liable to pay an annual fee for each year or part of a year that the authorisation is in effect.

(2) The holder of an environmental authorisation granted for a specified period is liable to pay a whole of period fee for the whole of the period for which the authorisation is granted.

(3) The holder of an accredited or special environmental authorisation is entitled to a reduction in the whole of period fee that would have been payable if, instead of that kind of environmental authorisation, the holder had been granted a standard environmental authorisation.

55 Nonpayment of fees

(1) If the holder of an environmental authorisation fails to pay an amount determined in relation to the authorisation when it is due, the authority must, by written notice to the holder—

(a) require that the amount be paid by the day specified in the notice; and

(b) advise the holder that, if the amount is not paid on or before that day, the authorisation will be cancelled.

(2) The authority must cancel an environmental authorisation if—

(a) a notice under subsection (1) has been sent to the holder of the authorisation; and

(b) the amount due has not been paid by the day specified in the notice.

57 Review of certain authorisations

(1) The authority must review a standard environmental authorisation granted for an unlimited period at least once—

(a) within 5 years after the day the authorisation first comes into effect; and

(b) in each further 5-year period during which the authorisation continues to have effect.

(2) The authority must review a special environmental authorisation granted for a specified period longer than 1 year annually.

(3) The authority may also review a standard or special environmental authorisation at any time that the authorisation is in effect.

(4) After conducting a review under this section, the authority may take action under this Act or decide not to do so.

Note Section 61 requires the authority to take into account certain matters in making a decision under this section.

58 Review of accredited environmental authorisations

(1) The authority must, at least once in every 3 years after the grant of an accredited environmental authorisation, review the accreditation.

(2) After conducting a review, the authority may take action under this section or decide not to do so.

(3) If as a result of the review and after taking into account the matters mentioned in section 61, the authority is of the opinion that the activity conducted under the authorisation should not continue to be an accredited environmental authorisation, the authority must cancel the accredited environmental authorisation.

(4) If the authority takes action under subsection (3), the authorisation is taken (in relation to activities conducted after the date of cancellation) to be a standard environmental authorisation and to have been granted under section 49 for the unexpired period of the former accredited environmental authorisation.

59 Notification of review of environmental authorisations

(1) When a review under section 57 (1) or section 58 (1) is finished, the authority must prepare a notice—

(a) stating the outcome of the review; and

(b) indicating that a copy of the review is available for public inspection under section 19 (Inspection of documents).

(2) The notice is a notifiable instrument.

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

(3) The authority must also publish the notice in a daily newspaper.

(4) The notice must be notified under the Legislation Act, and published in a daily newspaper, within 10 working days after the day the review is completed.

60 Variation

(1) Subject to section 61 and section 62, the authority may vary an environmental authorisation by written notice to the holder of the authorisation—

(a) on application by the holder; or

(b) if this Act has been amended since the authorisation was granted; or

(c) if the authority has reasonable grounds for believing—

(i) that—

(A) in conducting the authorised activity, the holder has contravened, is contravening or is likely to contravene the environmental authorisation, an environmental protection order or a provision of this Act; and

(B) as a result, serious or material environmental harm has happened, is happening or is likely to happen; or

(ii) that the potential for the authorised activity to cause serious or material environmental harm has changed; or

(iii) that the circumstances in which the environmental authorisation was granted or previously varied have changed in a material respect; or

(iv) that the environmental authorisation was granted or previously varied on the basis of false or misleading information.

(2) The authority may not vary the term of an environmental authorisation under this section.

61 Matters required to be taken into account for certain decisions under div 8.2

In making a decision under section 49 (1), section 51, section 57 or section 60 (1), the authority must take into account—

(a) the potential for the activity to cause environmental harm, including the likelihood over time of that potential changing or that harm being serious or material environmental harm; and

(b) the environmental record of the applicant; and

(c) any relevant environment protection policy; and

(d) the actual or potential economic and social benefits that are being or would be derived from the activity; and

(e) for a decision under section 60—

(i) the environmental record of the applicant since the environmental authorisation was granted or last varied, as the case may be; and

(ii) any submissions made in response to an invitation under section 62 (1) (c); and

(f) any other matters that the authority considers relevant.

62 Notice of intention to vary an authorisation

(1) Subject to subsection (2), before acting under section 60, the authority must give the holder of the environmental authorisation a notice—

(a) stating that the authority is proposing to vary the authorisation; and

(b) stating the nature of, and the reasons for, the proposed variation; and

(c) inviting a written submission on the proposed variation on or before a specified date, being a date 10 working days after the date of the notice.

(2) This section does not apply if—

(a) the variation is for the sole purpose of correcting an error or omission of a formal nature and the holder of the authorisation has given his or her written consent to the variation; or

(b) the authority—

(i) has reasonable grounds for believing that the authorised activity is causing, or in the immediate future will cause or is likely to cause, serious or material environmental harm; and

(ii) is satisfied that the variation will assist in reducing or preventing that harm; or

(c) the variation is in accordance with an application under section 60 (1) (a).

63 Suspension and cancellation

(1) Subject to section 64, the authority may suspend or cancel an environmental authorisation by written notice to the holder of the authorisation if the authority has reasonable grounds for believing—

(a) that—

(i) in conducting the authorised activity, the holder has contravened or is contravening the environmental authorisation, an environmental protection order or a provision of this Act; and

(ii) as a result, serious or material environmental harm has happened, is happening or is likely to happen; or

(b) that the holder has ceased to conduct the authorised activity; or

(c) that the environmental authorisation was granted or varied on the basis of false or misleading information.

(2) An environmental authorisation may be suspended under subsection (1) until the authority is satisfied that specified conditions are fulfilled.

(3) In making a decision under subsection (1), the authority must take into account—

(a) the environmental record of the applicant since the environmental authorisation was granted or last varied, as the case requires; and

(b) any submissions made in response to an invitation under section 64 (c).

64 Notice of intention to suspend or cancel an authorisation

Before acting under section 58 or section 63, the authority must give the holder of the environmental authorisation a notice—

(a) stating that the authority is—

(i) under section 58—proposing to cancel the authorisation; or

(ii) under section 63—proposing to suspend or cancel the authorisation, as the case may be; and

(b) stating the reasons for the proposed suspension or cancellation; and

(c) inviting a written submission on the proposed suspension or cancellation on or before a specified date, being a date 10 working days after the date of the notice.

65 Effect of suspension

For this Act, if an environmental authorisation to conduct an activity is suspended, the conduct of the activity is taken not to be authorised during the period of the suspension.

66 Surrender of environmental authorisation

The holder of an environmental authorisation may surrender the authorisation by written notice to the authority.

67 Notification of ceasing activity

If the holder of an environmental authorisation ceases permanently to conduct the authorised activity, the holder must not fail, without reasonable excuse, to notify the authority in writing within 10 working days of that cessation.

Maximum penalty: 10 penalty units.

67A Recognised environmental authorisations

(1) The Minister may declare a licence, authorisation, permit, notice or approval issued, granted or given under a law of a State or another Territory to conduct a class of activity specified in schedule 1, section 1.2 to be a recognised environmental authorisation to which this division applies.

(2) A declaration under subsection (1) is a disallowable instrument.

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

Part 9 Environmental protection

Division 9.1 Environmental improvement plans

68 Contents of environmental improvement plan

(1) For section 69, an environmental improvement plan in relation to an activity must, having regard to relevant best practice, specify—

(a) the matters addressed by the plan; and

(b) the ways in which the conduct of the activity will be altered—

(i) to minimise or reduce the adverse environmental impact of the activity; and

(ii) to ensure that the activity is conducted in accordance with this Act; and

(c) a timetable for the implementation of each part of the plan.

(2) An environmental improvement plan may include a requirement that specified monitoring or testing be conducted to assess the environmental impact of the activity.

69 Authority may require environmental improvement plan

(1) The authority may by written notice require a person conducting, or proposing to conduct, an activity to prepare or cause to be prepared and to submit for approval to the authority a draft environmental improvement plan in relation to the activity if the authority—

(a) has reasonable grounds for believing—

(i) that, in conducting the activity, the person has contravened, is contravening or is likely to contravene an environmental authorisation, an environmental protection order or a provision of this Act; and

(ii) that, as a result, serious or material environmental harm has happened, is happening or is likely to happen; and

(b) is satisfied that changes in the method of conducting the activity would reduce the likelihood of that contravention or resultant harm.

(2) A notice under subsection (1) must—

(a) specify the grounds on which the draft environmental improvement plan is required; and

(b) outline the facts and circumstances forming the basis for the grounds; and

(c) specify any particular matters that must be addressed in the draft plan; and

(d) specify a date, not earlier than 20 working days after the date of the notice, on or before which the person must submit the draft plan to the authority; and

(e) specify—

(i) the fee that must be paid when the draft plan is submitted; or

(ii) the rate at which, or the formula or other method by which, that fee is to be calculated.

(3) A person must not fail to comply with a notice under subsection (1).

Maximum penalty (subsection (3)): 50 penalty units.

71 Approval of environmental improvement plan

(1) If the authority receives a draft environmental improvement plan submitted in compliance with—

(a) a notice under section 69 (1); or

(b) a condition of an environmental authorisation;

the authority must, within 20 working days of that receipt, by written notice—

(c) approve the draft plan and require the person who submitted the plan to implement the plan as approved; or

(d) reject the draft plan and require the person to—

(i) amend the draft plan in accordance with any requirements specified in the notice; and

(ii) resubmit the draft plan to the authority.

(2) If the authority requires a person to resubmit a draft plan under subsection (1) (d), the authority must, by written notice to the person within 10 working days of receipt of the resubmitted draft plan—

(a) approve the draft plan and require the person to implement the plan as approved; or

(b) reject the draft plan.

(3) A person must not fail to comply with—

(a) a notice under subsection (1) (c) or (2) (a) requiring the person to implement the plan approved under that paragraph; or

(b) a notice under subsection (1) (d) requiring the person to amend the draft plan and resubmit it to the authority.

Maximum penalty (subsection (3)): 50 penalty units.

72 Accreditation of voluntary improvement plans

(1) A person who is conducting, or proposing to conduct, an activity may apply to the authority for accreditation of an environmental improvement plan in relation to the activity that the person has, on his or her own initiative, prepared or caused to be prepared.

(2) An application must include—

(a) a request that the plan be accredited under this section; and

(b) a copy of the plan, specifying the period during which the plan is proposed to be implemented and the measures proposed to be taken under the plan to achieve the best environmental practice.

(3) The authority may accredit an environmental improvement plan under this section if satisfied that, as a result of implementing the plan, over the specified period environmental harm would be reduced to the maximum extent reasonably possible.

(4) In making a decision under subsection (3), the authority must take into account—

(a) the extent to which the objects of this Act would be furthered by accrediting the plan; and

(b) the nature of the activity, particularly the potential of the activity to cause serious or material environmental harm; and

(c) the state of available technology.

Division 9.2 Environmental audits

73 Meaning of *auditor* for div 9.2

In this division:

auditor, in relation to an environmental audit, means the person who conducts the audit.

74 Conduct of audits

For section 76 or section 78, an environmental audit is an assessment of an activity to decide—

(a) the source, cause or extent of environmental harm being caused, or likely to be caused, by the activity; and

(b) the need for any alteration of management practices to reduce the environmental impact of the activity; and

(c) the extent and nature of any contravention, or likely contravention, of an environmental authorisation, an environment protection order or a provision of this Act.

75 Certain auditors to be approved

(1) An environmental audit for section 76 or section 78 must be conducted by a person approved by the authority to conduct the environmental audit.

(2) The authority must not approve a person under subsection (1) unless satisfied that the person—

(a) has appropriate qualifications and experience to enable the person to conduct the audit; and

(b) meets the prescribed criteria.

(3) For this section, the authority must prepare and maintain a list of approved auditors whom it is satisfied meet the requirements of subsection (2).

(4) The authority must remove the name of an auditor from the list maintained under subsection (3) if satisfied that the auditor no longer meets the prescribed criteria.

(5) An auditor is taken to be on a list maintained for subsection (3) for so long as the name of the auditor appears on a list of auditors maintained under a corresponding law of a State or another Territory.

(6) A condition applying to a person whose name appears on a list of auditors maintained under a corresponding law of a State or another Territory applies to that person when conducting an audit under this Act.

76 Authority may require environmental audit

(1) The authority may by written notice require a person conducting, or proposing to conduct, an activity to commission an environmental audit of the activity and submit a report on the audit to the authority, if the authority has reasonable grounds for believing that—

(a) in conducting the activity, the person—

(i) has contravened, is contravening or is likely to contravene an environmental authorisation, an environmental protection order or a provision of this Act; or

(ii) has breached, is breaching or is likely to breach an environmental protection agreement; and

(b) if the person were to conduct the proposed activity, the person may contravene an environmental authorisation, an environmental protection order or a provision of this Act, or may breach an environmental protection agreement; and

(c) as a result, serious or material environmental harm has happened, is happening or may happen.

(2) The authority may, by written notice, require a person to commission an environmental audit of contaminated land.

(3) An auditor must not carry out an audit for subsection (2) if the auditor carried out an assessment or remediation of the land to which the audit relates.

(4) A notice under subsection (1) must—

(a) specify the grounds on which the audit is required; and

(b) outline the facts and circumstances forming the basis for the grounds; and

(c) specify any particular matters that must be addressed in the audit; and

(d) specify a date, not earlier than 20 working days after the date of the notice, on or before which the person must submit the auditor's report to the authority; and

(e) specify—

(i) the fee that must be paid when the auditor's report is submitted; or

(ii) the rate at which, or the formula or other method by which, that fee is to be calculated.

(5) A person must not fail to comply with a notice under subsection (1).

Maximum penalty: 50 penalty units.

(6) A reference in subsection (1) to ***conducting*** an activity includes a reference to a variation or proposed variation of how the activity is conducted.

76A Requests for auditor's statements

(1) An auditor must, within 7 working days of receiving a request under this or another Act to carry out an audit of contaminated land, give to the authority a written notice specifying—

(a) the name of the person making the request; and

(b) reasons for the person making the request; and

(c) the location of the land to which the audit relates; and

(d) an estimation of the time within which the audit will be completed.

(2) An auditor must, within 15 working days after completing an audit, give to the authority a copy of the site audit statement.

Note If a form is approved under s 165A for this provision, the form must be used.

76B Annual returns—auditors

An auditor must, within 60 working days after the end of each financial year, give to the authority a report about each audit of contaminated land carried out under this Act or another Act during that year.

Note If a form is approved under s 165A (Approved forms) for a report, the form must be used.

77 Authority's response to environmental audit report

(1) If the authority receives an environmental audit report submitted in compliance with—

(a) a notice under section 76 (1); or

(b) a condition of an environmental authorisation;

the authority must, within 20 working days of that receipt, consider the report and by written notice—

(c) require the person who submitted the report to provide further specified information by the specified date, not less than 10 working days after the date of the notice; or

(d) advise the person that the authority intends to take specified action under this Act in relation to the activity assessed by the audit; or

(e) advise the person that no further action will be taken by the authority in relation to the audit report.

(2) If the authority requires a person to provide further information under subsection (1) (c), the authority must take action under subsection (1) (d) or (e) by written notice to the person within 10 working days of—

(a) receipt of the further information; or

(b) the end of the date specified in the notice under subsection (1) (c);

whichever happens first.

(3) A person must not fail to comply with a notice under subsection (1) (c) requiring the person to provide further specified information by a specified date.

Maximum penalty (subsection (3)): 50 penalty units.

78 Protection for reports of voluntary audits

(1) A person who is conducting, or proposing to conduct, an activity may apply to the authority to obtain the protection of this section in relation to an environmental audit of the activity that the person, on his or her own initiative, proposes to commission.

(2) An application must include—

(a) a request that the applicant be granted protection under this section; and

(b) a detailed outline of the matters to be addressed by the audit and how those matters will be addressed.

(3) The authority may grant an applicant protection under this section in relation to a specified environmental audit if satisfied that the objects of this Act would be better furthered by granting protection than by not doing so.

(4) A grant under subsection (3) may be made subject to conditions, including—

(a) that the report of the audit must address, and may only address, specified matters; and

(b) that the report be prepared in a specified way.

(5) A person who has been granted protection under this section in relation to an environmental audit must submit to the authority a copy of the auditor's report within 20 working days after receiving the report.

Maximum penalty: 50 penalty units.

Note A fee may be determined under s 165 for this subsection.

(6) Subject to compliance with the conditions (if any) of a grant of protection made under subsection (3), the environmental audit report specified in the grant is not admissible in evidence against the applicant in any proceedings for the enforcement of this Act.

(7) This section does not affect—

(a) the obligation of the holder of an environmental authorisation to comply with the conditions of the authorisation; or

(b) the obligation of a person to notify the authority under section 23.

79 Protection does not extend to environment protection orders

A grant of protection under section 78 does not prevent the authority from serving an environment protection order in relation to a matter addressed in the audit report.

Division 9.3 Emergency plans

80 Definitions for div 9.3

In this division:

environmental emergency means a foreseeable occurrence that, if it occurred, would be likely to cause—

(a) the entry into the environment of a measure of a pollutant that exceeds the measure authorised by or under this Act; and

(b) as a result of the entry of that excess pollutant, serious or material environmental harm.

preparation requirements means a course of action mentioned in section 81 (1) (b).

81 Contents of emergency plan

(1) An emergency plan—

(a) must specify a course of action to be undertaken by a person conducting an activity in the event of a specified kind of environmental emergency occurring in the conduct of that activity; and

(b) may specify a course of action to be undertaken to prepare for the possible future occurrence of such an emergency; and

(c) may specify a timetable for the implementation of any preparation requirements.

(2) An emergency plan may address 1 or more environmental emergencies.

82 Authority may require emergency plan

(1) The authority may, by written notice require a person conducting, or proposing to conduct, an activity to prepare and submit for approval to the authority a draft emergency plan in relation to the activity, if the authority has reasonable grounds for believing that 1 or more specified environmental emergencies may occur during the conduct of that activity.

(2) A notice under subsection (1)—

(a) must specify the grounds on which the draft emergency plan is required; and

(b) must outline the facts and circumstances forming the basis for the grounds; and

(c) must specify the environmental emergencies that must be addressed in the draft plan; and

(d) may specify that certain preparation requirements be included in the draft plan; and

(e) may require that the draft plan be prepared on the person's behalf by a person who holds specified qualifications; and

(f) may require that specified inquiries be undertaken by that person before preparing the draft plan; and

(g) must specify a date (not earlier than 20 working days after the date of the notice) on or before which the person must submit the draft plan to the authority; and

(h) must specify—

(i) the fee that must be paid when the draft plan is submitted; or

(ii) the rate at which, or the formula or other method by which, that fee is to be calculated.

(3) A person must not fail to comply with a notice under subsection (1).

Maximum penalty (subsection (3)): 50 penalty units.

84 Approval of emergency plan

(1) If the authority receives a draft emergency plan submitted in compliance with—

(a) a notice under section 82 (1); or

(b) a condition of an environmental authorisation;

the authority must, within 20 working days of that receipt, by written notice—

(c) approve the draft plan and require the person who submitted the plan to implement any preparation requirements included in the plan as approved; or

(d) reject the draft plan and require the person to—

(i) amend the draft plan in accordance with any requirements specified in the notice; and

(ii) resubmit the draft plan to the authority.

(2) If the authority requires a person to resubmit a draft plan under subsection (1) (d), the authority must, by written notice to the person within 10 working days of receipt of the resubmitted draft plan—

(a) approve the draft plan and require the person to implement any preparation requirements included in the plan as approved; or

(b) reject the draft plan.

(3) A person must not fail to comply with—

(a) a notice under subsection (1) (c) or (2) (a) requiring the person to implement the preparation requirements included in the plan approved under that paragraph; or

(b) a notice under subsection (1) (d) requiring the person to amend the draft plan and resubmit it to the authority.

Maximum penalty: 50 penalty units.

Division 9.4 Financial assurances

85 Authority may require financial assurance

(1) The authority may, as a condition of an environmental authorisation, require the holder of the authorisation to provide a financial assurance to the authority if satisfied that the condition is justified having regard to—

(a) the likelihood that the authorised activity will cause serious or material environmental harm other than harm permitted by or under this Act; and

(b) the likelihood that action will need to be taken in the future to remedy the environmental harm described in paragraph (a); and

(c) the environmental record of the holder of the authorisation; and

(d) any other matter the authority considers relevant.

(2) A financial assurance must be in the form of—

(a) a bank guarantee; or

(b) a bond; or

(c) an insurance policy; or

(d) another form of security that the authority considers appropriate.

(3) The authority must not require financial assurance of an amount greater than the total amount that the authority has reasonable grounds for believing is likely to be needed to remedy the foreseeable environmental harm that could result from the conduct of the authorised activity.

(4) A financial assurance must be provided—

(a) for the period specified in the authorisation; or

(b) if no period is so specified, until—

(i) the authorisation is varied to remove the condition requiring the financial assurance; or

(ii) the authorisation is cancelled under section 55 or section 63 or is surrendered under section 66.

86 Show cause why financial assurance should not be provided

(1) If the authority proposes to grant an environmental authorisation subject to a condition requiring the provision of a financial assurance, the authority must give the applicant written notice of its intention to impose the condition.

(2) A notice under subsection (1) must —

(a) specify the grounds on which the condition is proposed to be imposed; and

(b) specify the amount and form of the financial assurance proposed to be required; and

(c) invite the applicant to show cause why the condition should not be imposed; and

(d) specify the date, not earlier than 20 working days after the date of the notice, on or before which any representations under paragraph (c) are to be made.

(3) Within 20 working days after the end of the period allowed under subsection (2) (d) for representations, the authority must —

(a) notify the applicant that the condition is or is not being imposed; and

(b) if it is being imposed—specify in the notice the date, not earlier than 10 working days after the date of the notice, on or before which the financial assurance must be provided.

87 Non-provision of financial assurance

If a financial assurance required as a condition of an environmental authorisation is not provided on or before the due date, the authority must cancel the authorisation.

88 Claim on or realisation of financial assurance

(1) This section applies if the authority incurs, or will incur, costs and expenses in taking action to remedy serious or material environmental harm—

(a) that was caused, or likely to be caused, by an authorised activity in relation to which a financial assurance has been provided; and

(b) that is within the class of harm in relation to which the financial assurance may be claimed or realised; and

(c) that was not permitted by or under this Act.

(2) The authority may recover the reasonable costs and expenses of taking the action by making a claim on or realising the financial assurance or part of it.

89 Notice before claim on or realisation of a financial assurance

(1) Before acting under section 88, the authority must give to the holder of the environmental authorisation in relation to which the financial assurance was provided, a written notice—

(a) specifying the environmental harm caused, or likely to be caused, by the authorised activity; and

(b) giving details of the action taken, or to be taken, to remedy the environmental harm or likely environmental harm; and

(c) specifying the amount of the financial assurance to be claimed or realised; and

(d) inviting the holder of the authorisation to make a written representation to the authority to show why the financial assurance should not be claimed or realised as proposed on or before a specified date (not earlier than 20 working days after the date of the notice).

(2) The authority must, within 20 working days after the date specified in the invitation under subsection (1) (d) and taking into account any representations made in response to the invitation—

(a) decide whether or not to make a claim on or realise the financial assurance or part of it; and

(b) give the holder of the authorisation written notice of that decision.

90 Recovery of extra costs

(1) If the amount recovered by the authority by a claim on or by realising a financial assurance (the ***realised assurance***) is less than the reasonable costs and expenses that the authority incurred or will incur in taking action to remedy the environmental harm caused, or likely to be caused, by the authorised activity (the ***reasonable costs and expenses***), the authority may give the holder of the environmental authorisation written notice requiring the holder to pay the specified amount, being the difference between the reasonable costs and expenses and the realised assurance.

(2) The notice must specify the date, not earlier than 20 working days after the date of the notice, on or before which the specified amount is required to be paid.

(3) If—

(a) the authority has given a person a notice under subsection (1); and

(b) the holder of the environmental authorisation has failed to pay the specified amount on or before the specified date;

so much of the specified amount as remains unpaid, together with interest on the unpaid amount, is a debt due to the Territory by the holder.

Note A rate of interest may be determined under s 165 for this subsection.

91 Money held by Territory as financial assurance

If an amount of money is held by the Territory as a financial assurance or part of a financial assurance, the following provisions apply:

(a) interest accrues on so much of that original amount as from time to time remains unclaimed by the authority under section 89;

(b) for the purposes of any claim the authority may make under section 89, the financial assurance is taken to include any accrued interest other than interest to which the holder of the authorisation is entitled to be paid under paragraph (c);

(c) during the period the financial assurance is required, on each anniversary of the payment of the original amount, the holder of the authorisation is entitled to be paid by the Territory so much of the interest that accrued during the year that ended on the day before that anniversary as remains unclaimed by the authority under section 89;

(d) when—

(i) the financial assurance is no longer required by the authority; or

(ii) the environmental authorisation is cancelled under section 55 or section 63 or is surrendered under section 66;

so much of the original amount and accrued interest as remains unclaimed by the authority under section 89 must be paid by the Territory to the holder of the authorisation.

Note A rate of interest may be determined under s 165 for par (a).

Division 9.5 Assessment and remediation

91A Definitions for div 9.5

(1) In this division:

approved use, in relation to land, means use—

(a) that is consistent with the national capital plan or the territory plan, as the case requires; and

(b) for leased land—that is permitted by the lease.

national environment protection measure means a national environment protection measure made under the *National Environment Protection Council Act 1994*, section 13 (1) as in force from time to time.

substance includes matter or thing.

(2) For this division, an ***environmental audit*** for assessment or remediation of contaminated land is an audit by an auditor—

(a) that relates to an assessment or remediation carried out (whether under this Act or otherwise) in relation to actual or possible contamination of land; and

(b) that is conducted for the purposes of deciding any 1 or more of the following:

(i) the nature and extent of the assessment or remediation undertaken;

(ii) the nature and extent of any contamination or remaining contamination of the land;

(iii) what further assessment or remediation is necessary before the land is suitable for any specified use or range of uses.

(iv) the appropriateness of any remediation plan, long-term management plan, assessment proposal or remediation proposal.

91B Assessment of risk of harm

(1) For this division, to assess whether land is contaminated with 1 or more substances in such a way as to present, or to be likely to present a significant risk of harm to human health, or a risk of material environmental harm or serious environmental harm, the authority must include a consideration of all of the following matters in the assessment:

(a) whether the contamination of the land has already caused harm;

(b) whether the substances are toxic, persistent or bioaccumulative or are present in large quantities or high concentrations or occur in combinations;

(c) whether there are routes by which the substances may proceed from the source of the contamination to human beings or other aspects of the environment;

(d) whether the uses to which the land and land adjoining it are currently being put are such as to increase the risk of harm;

(e) whether the use of the land and land adjoining it, being a use permitted by the lease to which the land is subject, is such as to increase the risk of harm;

(f) whether the substances have migrated or are likely to migrate from the land (whether because of the nature of the substances or the nature of the land);

(g) any environment protection policy made by the authority on contamination and remediation;

(h) any relevant national environment protection measure.

(2) Subject to subsection (3), land may be regarded at any particular time as being contaminated in such a way as to present a significant risk of harm even if the harm could come into existence only in certain circumstances of occupation or use of the land and those circumstances do not exist at that time.

(3) Land must be regarded in the way mentioned in subsection (2), if the circumstances are reasonably foreseeable, and consistent with the approved use of the land, at that time.

91C Order to assess whether land contaminated

(1) If the authority has reasonable grounds for believing that land is contaminated in such a way as to cause, or be likely to cause, either a significant risk of harm to human health or a significant risk of material environmental harm or serious environmental harm, or both, the authority may—

(a) by written notice served on the appropriate person, order the appropriate person to conduct an assessment of the land; or

(b) itself conduct the assessment.

(2) An order under subsection (1) must —

(a) be in writing; and

(b) specify—

(i) the person to whom the order relates; and

(ii) the land to which the order relates; and

(iii) the period within which the assessment is to be conducted; and

(iv) the nature of the contamination that the authority has reasonable grounds for believing is causing, or is likely to cause, a significant risk of harm to human health or a significant risk of material environmental harm or serious environmental harm; and

(v) the action that the person subject to the order must take in assessing and reporting; and

(vi) any other requirements the authority considers appropriate having regard to the nature and extent of the contamination and the physical attributes of the land.

(3) The action that may be required to be taken under subsection (2) (b) (vi) includes, but is not limited to, the following:

(a) that the person serve notice of the order on the occupiers of land access to which is necessary for the person to carry out the assessment and, if an occupier is not the lessee of that land, serve notice on the lessee;

(b) that the person make progress reports to the authority on the assessment;

(c) that the person advertise and conduct meetings to give progress reports to the public, and to receive public comment, on the assessment.

(4) A person to whom an order is given under subsection (1) must —

(a) conduct the assessment—

(i) within the period specified in an order under subsection (1); and

(ii) in accordance with the prescribed standards and procedures for carrying out an assessment, including standards and procedures specified in a relevant national environment protection measure; and

(iii) otherwise in accordance with the terms of the order; and

(b) commission an environmental audit of the assessment by an auditor approved under section 75.

(5) In preparing a report of an audit for this section, the auditor commissioned to conduct the assessment must have regard to—

(a) the provisions of this Act; and

(b) the permitted and approved uses of the land to which the assessment relates; and

(c) the degree or extent of contamination; and

(d) any relevant environmental protection policies; and

(e) any relevant national environment protection measures.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see Legislation Act, s 104).

(6) For subsection (4) (b), the person to whom the order is given must submit the name of an auditor to the authority for approval within 10 working days of the date of the order.

(7) Despite section 75, the authority must not approve an auditor for this section unless the auditor meets the prescribed criteria.

(8) A person who, without reasonable excuse, contravenes subsection (4) commits an offence.

Maximum penalty: 50 penalty units.

91D Order to remediate land

(1) If the authority has reasonable grounds for believing that the land to which the audit relates is contaminated in such a way as to cause, or be likely to cause, either a significant risk of harm to human health or a significant risk of material environmental harm or serious environmental harm, or both, the authority may—

(a) by written notice served on an appropriate person, order the appropriate person to remediate the land; or

(b) itself conduct the remediation.

(2) An order under subsection (1) must —

(a) be in writing; and

(b) specify—

(i) the person or people to whom the order relates; and

(ii) the land to which the order relates; and

(iii) the period within which the remediation is to be conducted; and

(iv) the nature of the contamination that the authority has reasonable grounds for believing is causing, or is likely to cause, a significant risk of harm to human health or a significant risk of material environmental harm or serious environmental harm; and

(v) the action that the person subject to the order must take in remediating and reporting; and

(vi) any other requirements the authority considers appropriate having regard to the nature and extent of the contamination and the physical attributes of the land.

(3) The action that may be required to be taken under subsection (2) (b) (vi) includes, but is not limited to, the following actions:

(a) that the person serve notice of the order on the occupiers of land access to which is necessary for the person to carry out the remediation and, if an occupier is not the lessee of that land, serve notice on the lessee;

(b) that the person make progress reports to the authority on the remediation;

(c) that the person advertise and conduct meetings to give progress reports to the public, and to receive public comment, on the remediation.

(4) A person to whom an order is given under subsection (1) must—

(a) conduct the remediation—

(i) within the period specified in an order under subsection (1); and

(ii) in accordance with the prescribed standards and procedures for carrying out remediation, including standards and procedures specified in a relevant national environment protection measure; and

(iii) otherwise in accordance with the terms of the order; and

(b) commission an environmental audit of the remediation by an auditor approved under section 75.

(5) In preparing a report of an audit for this section, the auditor commissioned to conduct the remediation must have regard to—

(a) the provisions of this Act; and

(b) the permitted and approved uses of the land to which the assessment relates; and

(c) the degree or extent of contamination; and

(d) any relevant environmental protection policies; and

(e) any relevant national environment protection measures.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see Legislation Act, s 104).

(6) For subsection (4) (b), the person to whom the order is given must submit the name of an auditor to the authority for approval within 10 working days of the date of the order.

(7) Despite section 75, the authority must not approve an auditor for this section unless the auditor meets the prescribed criteria.

(8) The lessee of land to whom an order is given under subsection (1) must not, without the consent of the authority, transfer or sublet the land while the order is in force.

(9) A person who, without reasonable excuse, contravenes subsection (4) commits an offence.

Maximum penalty: 200 penalty units.

91E Notification of certain people about orders for assessment or remediation

(1) The authority must, by written notice, notify the occupier and, if the occupier is not the lessee, the lessee, of land adjacent to land to which section 91C (1) or section 91D (1) relates—

(a) that notice of an assessment or remediation of the land has been given to the appropriate person; or

(b) that the authority is carrying out the requirements of an assessment order or remediation order in relation to the land.

(2) A notice under subsection (1) must —

(a) invite the person to whom notice is given to make written submissions to the authority within 21 days beginning the day after the day the person received the notice; and

(b) state the places where a copy of any of the following documents may be inspected:

(i) a report of the outcome of an assessment under section 91C (1);

(ii) a progress report on the assessment under section 91C (3);

(iii) an assessment under section 91C (4) (a);

(iv) an audit under section 91C (4) (b);

(v) a report of the outcome of an assessment under section 91D (1);

(vi) a progress report on the assessment under section 91D (3);

(vii) an audit under section 91C (4) (b).

91F Certain documents to be available free of charge

The authority must—

(a) make available for inspection by any person free of charge a document mentioned in section 91E (2) (b); and

(b) on the request of a person, give a copy of a document mentioned in that paragraph to the person free of charge.

91G Extension of time

(1) The authority may, on written application by a person on whom an order is served under section 91C (1) or section 91D (1) for an extension of the period within which the person must conduct an assessment or remediation—

(a) extend or refuse to extend the period; or

(b) extend the period for a period less than that applied for.

(2) In deciding whether or not to extend the period, the authority must have regard to—

(a) the period of extension for which application is made; and

(b) whether the contamination is causing, or is likely to cause, a significant risk of harm to human health or a risk of material environmental harm or serious environmental harm.

91H Further information

For section 91C and section 91D, the authority may, by written notice, require an auditor to give to the authority, either orally or in writing, the further information relating to an assessment or remediation that is specified in the notice.

91I Choice of appropriate person

(1) For section 91C (1) and section 91D (1), an appropriate person must be chosen from among the following people in the following order:

(a) a person who had principal responsibility for the contamination of the land with the substance (whether or not there were other people who had responsibility for the contamination of the land with the substance) or, if that is not practicable, the person referred to in paragraph (b);

(b) a lessee of the land (whether or not the person had any responsibility for the contamination of the land with the substance) or, if that is not practicable, the person mentioned in paragraph (c);

(c) a notional lessee of the land (whether or not the person had any responsibility for the contamination of the land with the substance).

(2) If there is more than 1 person in the category of appropriate person specified in subsection (1), the authority may, but is not required to, make more than 1 person in the category the subject of the order.

(3) For this section, the choice of a person is to be regarded as not practicable if—

(a) the authority cannot, after reasonable inquiry, ascertain the identity or location of the person; or

(b) in the opinion of the authority, the person does not have the resources to comply with the order.

(4) In this section:

financial controller means a receiver, manager or other person who has possession or control of land for the purpose of realising part or all of the value of the land to discharge an obligation secured over the land.

notional lessee, in relation to land—

(a) means a person who has vested rights in relation to the land that—

(i) carry an entitlement to have the lease transferred to the person; or

(ii) enable the person to dispose of or otherwise deal with the land;

so that the person is able to benefit from the value of the lease, or a substantial part of it, by the transfer, disposal or dealing; and

(b) includes a mortgagee in possession of the land the subject of the lease; but

(c) does not include—

(i) a person having security over the lease; or

(ii) a person who is a legal personal representative of a person who was the lessee of the land immediately before the appointment of the representative took effect or who was a lessee of the land immediately before his or her death; or

(iii) the public trustee because of the operation of the *Public Trustee Act 1985*, section 19; or

(iv) a person who would otherwise be a notional lessee if—

(A) the person has some security of the lease; and

(B) the person, or a financial controller appointed by the person, has entered into a contract to sell the land for the purpose of realising all or part of the value of the land to discharge an obligation so secured.

Division 9.6 Costs of assessment and remediation

91J Meaning of *assessment order* and *remediation order*—pt 9

In this part:

assessment order means an order under section 91C (1).

remediation order means an order under section 91D (1).

91K Recovery of costs associated with assessment or remediation

(1) If the authority takes action under section 91C (1) (b) or section 91D (1) (b), the authority may, by written notice, require an appropriate person against whom an order under that section may be made, to pay to the authority the reasonable costs and expenses incurred by it in taking that action.

(2) The notice must specify the date, not earlier than 20 working days after the date of the notice, on or before which the amount is to be paid.

(3) If—

(a) the authority has given a person a notice under subsection (2); and

(b) the person has failed to pay the specified amount on or before the specified date;

so much of the amount as remains unpaid, together with interest on the unpaid amount, is a debt due to the Territory by that person.

Note A rate of interest may be determined under s 165 for this subsection.

91L Priority for costs if owner insolvent

If the authority carries out the requirements of an assessment order or remediation order in relation to land disclaimed (by a liquidator or trustee in bankruptcy) as onerous property in the course of proceedings for winding up or bankruptcy, the authority may recover the cost of carrying out the order together with a rate of interest and reasonable costs and expenses so incurred, in priority to any holder of security over the land.

Note A rate of interest may be determined under s 165 for this section.

91M Recovery of costs—assessment and remediation

(1) A person who carries out the requirements of an assessment or remediation under division 9.5 in relation to the contamination of land with a substance who was not responsible for the contamination, may recover in a court of competent jurisdiction a part of the person's costs in carrying out those requirements from each person who did have the responsibility.

(2) A person who carries out the requirements of an assessment or remediation under division 9.5 in relation to the contamination of land with a substance who was responsible for the contamination, may recover in a court of competent jurisdiction from each other person who had responsibility for the contamination a part of the first person's costs in carrying out those requirements.

(3) A reference in subsections (1) and (2) to the recovery of a part of a person's costs is a reference to the recovery of a part of the costs that is just and reasonable in the circumstances including the following circumstances:

(a) the proportion of responsibility of each person for the contamination;

(b) the reasonable cost of the remediation (if any) carried out by each person in relation to the contamination.

91N Costs—person responsible for contamination

In any proceedings under section 91M to recover from a person the cost of carrying out an assessment order or remediation order in relation to any land, the person is taken to have responsibility for contamination on that land, unless it is established that the contamination was not caused by the person, if—

(a) the person carried on activities on the land; and

(b) activities of the kind carried on generate or consume the same substances as those that caused the contamination or generate or consume substances that may be converted by reacting with each other or by the action of natural processes on the land into substances that are the same as those that caused the contamination.

91O Liability for losses

(1) A person who, with the permission of the occupier of land, enters any land, or does anything else on land, as required by an assessment order or remediation order, is liable to the occupier of the land for any loss suffered by the occupier as a result of the entry or other actions (including any loss suffered by the occupier because of the interruption to the occupier's business on that land by that entry or those actions).

(2) A person (other than the lessee of land) who, with the permission of the occupier, enters the land or does anything else on the land, as required by an assessment order or remediation order, is liable to the lessee of the land for any loss suffered by the lessee as a result of the entry or those actions or for any injury to the land caused by that person.

(3) In addition to any liability that a person may have under subsection (1) or (2), the person has a duty to meet the reasonable costs and expenses of the lessee and the occupier of land, as the case requires, in providing access to that land as mentioned in this section.

(4) A person has a duty—

(a) to take reasonable steps—

(i) to minimise the loss, and injury, mentioned in this section caused by the person's actions; and

(ii) toward restitution in relation to that loss or injury; and

(c) to compensate the party that suffered the loss, or injury, for which the person is liable to the extent that restitution is not practicable.

91P Director of body corporate that is wound up

(1) The Supreme Court may make an order under this section only if satisfied, on an application by the authority, that—

(a) the person was a director of, or a person concerned in the management of, the body corporate at the time when the assessment order or remediation order was made; and

(b) there is reason to believe that the body corporate was wound up as part of a scheme to avoid compliance with the assessment order or remediation order.

(2) The Supreme Court may order a person to comply with an assessment order or remediation order at the person's own expense if the person was a director of, or a person concerned in the management of, a body corporate that—

(a) has been wound up within 2 years before the court's order is made; and

(b) has failed to comply with the assessment order or remediation order.

(3) There is reason for belief of the kind mentioned in subsection (1) (b) if—

(a) the body corporate carried out 1 or more transactions—

(i) that were voidable because of the Corporations Act, section 588FE; or

(ii) that were such that the liquidator of the body corporate had a right to recovery of cash under the Corporations Act, section 567; or

(iii) by which the body corporate incurred a debt in relation to which a person contravened the Corporations Act, section 588G; and

(b) there was (at the time or times when the body corporate entered those transactions or a substantial part of them) reason to believe that the land was contaminated; and

(c) if a regulation made for this section applies—the prescribed conditions are satisfied.

(4) The Supreme Court must not make an order under this section if the person against whom the order would be made satisfies the court that—

(a) the person exercised due diligence to prevent the body corporate from avoiding compliance with the assessment order or remediation order; or

(b) the person could not reasonably have been expected to be aware of a scheme to avoid compliance with the assessment order or remediation order; or

(c) the person was not in a position to influence the conduct of the body corporate in relation to that scheme.

(5) The fact that the relevant assessment order or remediation order was partially complied with by the body corporate does not exclude the possibility that there is reason to form the belief mentioned in subsection (3).

(6) For this section, the fact that steps are taken to windup a body corporate before the authority makes an assessment order or remediation order in relation to the body corporate does not preclude the Supreme Court from finding that there is reason to believe that the body corporate was wound up as part of a scheme to avoid compliance with the order.

91Q Director of body corporate that disposed of land

(1) The Supreme Court may order a person to comply with an assessment order or remediation order at the person's own expense if—

(a) the person was a director of, or a person concerned in the management of, a body corporate that transferred land within 2 years before the court's order is made; and

(b) the transferee has failed to comply with the assessment order or remediation order in relation to the land.

(2) The person must comply with the assessment order or remediation order, subject to any modification by the Supreme Court.

(3) The Supreme Court may make an order under this section only if satisfied, on an application by the authority that—

(a) the person was a director of, or a person concerned in the management of, the body corporate at the time of the transfer of the land or at the time when the assessment order or remediation order was made in relation to the transferee; and

(b) there is reason to believe that the body corporate transferred the land as part of a scheme to avoid having itself to carry out assessment or remediation of the land (whether or not an assessment order or remediation order had been made in relation to the body corporate).

(4) There is reason for belief of the kind mentioned in subsection (3) (b) if, at the time or times when the body corporate entered into 1 or more transactions, or a substantial part of the transactions, for the transfer of the land—

(a) there was reason to believe that the land was contaminated; and

(b) the transferee was another body corporate that was related to the first body corporate (within the meaning of the Corporations Act); and

(c) the first body corporate had reason to believe that the transferee was unable to pay its debts or would, if it took steps to remediate the land (to the extent that a reasonable person would have expected, at the time or times, would be necessary), become unable to pay its debts.

(5) The Supreme Court must not make an order under this section if the person against whom the order would be made satisfies the court that—

(a) the person exercised due diligence to prevent the body corporate from avoiding compliance with the assessment order or remediation order; or

(b) the person could not reasonably have been expected to be aware of a scheme to avoid compliance with the assessment order or remediation order; or

(c) the person was not in a position to influence the conduct of the body corporate in relation to that scheme.

(6) The fact that the relevant order was partially complied with by the transferee does not exclude the possibility that there is reason to form the belief mentioned in subsection (3).

91R Holding company of body corporate that is wound up

(1) The Supreme Court may order a corporation to comply with an assessment order or remediation order at the corporation's own expense if the corporation was the holding company of a company that—

(a) has been wound up within 2 years before the court's order is made; and

(b) has failed to comply with the assessment order or remediation order.

(2) The corporation must comply with the assessment order or remediation order, subject to any modification by the Supreme Court.

(3) The Supreme Court may make an order under this section only if satisfied, on an application by the authority, that—

(a) the corporation was the holding company of the other company at the time when the assessment order or remediation order was made; and

(b) there is reason to believe that the other company was wound up as part of a scheme to avoid compliance with the assessment order or remediation order.

(4) There is reason for belief of the kind mentioned in subsection (3) (b) if—

(a) the corporation contravened the Corporations Act, section 588V in relation to the other company; and

(b) there was (at the time or times when the contravention happened) reason to believe that the land was contaminated; and

(c) if a regulation made for this section applies—the prescribed conditions are satisfied.

(5) Despite subsection (4), there is reason for belief of the kind mentioned in subsection (3) (b) also if—

(a) the other company carried out 1 or more transactions—

(i) that were voidable because of the Corporations Act, section 588FE; or

(ii) that were such that the liquidator of the other company had a right to recovery of cash under the Corporations Act, section 567; or

(iii) by which the other company incurred a debt in relation to which a person contravened the Corporations Act, section 588G; and

(b) there was (at the time or times when the other company entered those transactions or a substantial part of them) reason to believe that the land was contaminated.

(6) The fact that the relevant assessment order or remediation order was partially complied with by the other company does not exclude the possibility that there is reason to form the belief mentioned in subsection (3).

(7) For this section, the fact that steps are taken to wind up a company before the authority makes an assessment order or remediation order in relation to the company does not preclude the Supreme Court from finding that there is reason to believe that the company was wound up as part of a scheme to avoid compliance with the order.

Part 9A Fuel sales information

92 Fuel sales—provision of information

(1) The occupier of a service station (the ***occupier***) must, not later than 30 September, give the director-general details (the ***fuel information***) of the amount of each kind of liquid fuel sold at the service station in the year ending on the preceding 30 June.

Note If a form is approved under s 165A for information required under this section, the form must be used.

(2) The occupier must also give the director-general any further information reasonably required by the director-general to verify the fuel information.

(3) If the occupier fails to comply with subsection (1) or (2), the director-general may, in writing, require the occupier to do so by a stated day.

(4) The occupier commits an offence if the occupier fails to comply with a requirement under subsection (3).

Maximum penalty: 50 penalty units.

(5) An offence against subsection (4) is a strict liability offence.

(6) In this section:

occupier, in relation to a service station, means a person who carries on the business of a service station.

service station means any place where unpackaged liquid fuel is offered for sale by retail.

92A Confidential commercial information must not be disclosed

(1) This section applies to information given to the director-general under section 92.

(2) A person commits an offence if—

(a) the person discloses confidential commercial information that the person has only because of exercising a function under this Act; and

(b) the person knows that the information is confidential commercial information; and

(c) the disclosure is not—

(i) to the Territory or a Territory agency; or

(ii) by order of a court; or

(iii) with the consent of each person to whom the information has a commercial or other value.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(3) A person commits an offence if—

(a) the person discloses confidential commercial information that the person has only because of a disclosure permitted under subsection (2); and

(b) the person knows that the information is confidential commercial information; and

(c) the disclosure is not—

(i) to the Territory or a Territory agency; or

(ii) by order of a court; or

(iii) with the consent of each person to whom the information has a commercial or other value.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(4) In this section:

confidential commercial information means—

(a) information that has a commercial or other value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed; or

(b) other information that—

(i) concerns the lawful commercial or financial affairs of a person or undertaking; and

(ii) if it were disclosed, could unreasonably affect the person or undertaking.

court includes a tribunal, authority or person having power to require the production of documents or the answering of questions.

Territory agency means—

(a) a Minister; or

(b) an administrative unit; or

(c) a Territory instrumentality; or

(d) a corporation established for a public purpose under a Territory Act.

Part 10 Functions of the Minister

92B Definitions—pt 10

In this part:

environmental impact statement or ***EIS***—see the *Planning and Development Act 2007*, section 206 (Definitions—ch 8).

inquiry—see the *Planning and Development Act 2007*, section 206 (Definitions—ch 8).

93 Directions of Minister

(1) The authority must exercise his or her functions in accordance with any directions of the Minister under this section.

(2) The Minister must not give a direction to the authority in relation to a matter under parts 11 to 14.

(3) A direction is a disallowable instrument.

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

94 Environmental impact statements and inquiries

(1) This section applies in relation to an application for an environmental authorisation in relation to an activity.

(2) At the authority's request, or on the Minister's own initiative, the Minister may—

(a) direct that an EIS be prepared in relation to the possible environmental impact of the activity; and

(b) after the EIS is given to the Minister—establish a panel to conduct an inquiry into the activity.

(3) For subsection (2)—

(a) the Minister must not direct that an EIS be prepared or establish a panel unless satisfied that the activity is not the subject of a development application under the *Planning and Development Act 2007*; and

(b) the authority must not make a request unless the authority—

(i) is satisfied that the activity is not the subject of a development application under the *Planning and Development Act 2007*; and

(ii) has reasonable grounds for believing the activity has the potential to cause serious or material environmental harm.

(4) The Minister must give the authority a copy of—

(a) any EIS prepared as directed under subsection (2) (a); and

(b) the report of any inquiry panel established under subsection (2) (b).

94A Application of Planning and Development Act, pt 8.2 and pt 8.3

(1) The *Planning and Development Act 2007*, part 8.2 applies to an EIS prepared in accordance with a direction under section 94 (2) (a) as if—

(a) a reference to a development proposal were a reference to an activity; and

(b) a reference to the Minister were a reference to the Minister administering section 94; and

(c) a reference to the planning and land authority were a reference to the authority; and

(d) any other necessary changes, and any change prescribed by regulation, were made.

(2) The *Planning and Development Act 2007*, part 8.3 applies to an inquiry panel established under section 94 (2) (b) as if—

(a) a reference to the Minister were a reference to the Minister administering section 94; and

(b) a reference to the planning and land authority were a reference to the authority; and

(c) any other necessary changes, and any change prescribed by regulation, were made.

Part 11 Powers of authorised officers

Division 11.1 Preliminary

95 Definitions—pt 11

In this part:

connected—a thing is ***connected*** with a particular offence if—

(a) the offence has been committed in relation to it; or

(b) it will afford evidence of the commission of the offence; or

(c) it was used, is being used, or is intended to be used, for the purpose of committing the offence.

enter includes board.

offence includes an offence that there are reasonable grounds for believing has been, is being, or will be committed.

premises includes vacant land, vehicles, vessels and aircraft.

residential premises means premises used exclusively or primarily for residential purposes, and includes a private room in, but not any other part of, a motel, hotel, hostel or guesthouse.

Division 11.2 Entry and inspection generally

96 Entry of premises—routine inspections

(1) For the purposes of ascertaining whether this Act is being complied with, an authorised officer may enter—

(a) premises (other than residential premises) at any reasonable time; or

(b) any premises with the consent (obtained under section 103) of the occupier or a person apparently in charge of the premises.

(2) An authorised officer may enter premises under subsection (1) with the assistance that is necessary and reasonable.

97 Entry of premises—search warrants

(1) If an authorised officer has reasonable grounds for suspecting that there may be on any premises a thing of a particular kind connected with a particular offence against this Act, the authorised officer may enter premises under a search warrant under section 104.

(2) An authorised officer may enter premises under subsection (1) with the assistance and by the force that is necessary and reasonable.

(3) A police officer may, if called on by an authorised officer to do so, assist the authorised officer in the execution of a search warrant.

98 Identity cards must be produced

An authorised officer who enters premises under section 96 (1) or section 97 (1) is not authorised to remain on the premises if, on request by the occupier or a person apparently in charge of the premises, the officer does not produce his or her identity card.

99 Inspection of premises—routine inspections

An authorised officer who enters premises under section 96 (1) may do any of the following in relation to the premises or anything on the premises:

(a) inspect or examine;

(b) take measurements or conduct tests;

(c) take samples for analysis;

(d) examine records or documents relating to the operation of equipment and the operational processes carried out on those premises;

(e) take photographs, films, or audio, video or other recordings.

100 Inspection of premises—search warrant

(1) Subject to section 101, an authorised officer who enters premises under section 97 (1) may do any of the following in relation to the premises or anything on the premises:

(a) inspect or examine;

(b) take measurements or conduct tests;

(c) take samples for analysis;

(d) take photographs, films, or audio, video or other recordings;

(e) for a thing—subject to section 108, seize the thing;

(f) if the thing is a document—take copies of, or extracts from, the document.

(2) An authorised officer who enters premises under section 97 (1) may require the occupier or a person on the premises to do any of the following:

(a) answer questions or give information;

(b) make available any record or other document kept on the premises;

(c) provide reasonable assistance to the officer in relation to the exercise of his or her powers under subsection (1).

101 Routine inspections—serious and urgent circumstances

(1) An authorised officer who enters premises under section 96 (Entry of premises—routine inspections) may, if satisfied on reasonable grounds that it is necessary to do so because of urgent and serious circumstances, require the occupier or a person on the premises to do any of the following:

(a) answer questions;

(b) give information;

(c) make available to the authorised officer any record or document kept on the premises;

(d) provide reasonable assistance to the authorised officer in relation to the exercise of the authorised officer's functions.

(2) The power to act under subsection (1)—

(a) may be exercised even though the officer entered the premises without a warrant; and

(b) is in addition to any other power of the officer.

103 Consent to entry

(1) Before obtaining the consent of a person for section 96 (1) (b), an authorised officer must—

(a) produce his or her identity card; and

(b) inform the person that the person may refuse to give consent.

(2) If an authorised officer obtains the consent of a person for section 96 (1) (b), the officer must ask the person to sign a written acknowledgment of—

(a) the fact that the person has been informed that the person may refuse to give consent; and

(b) the fact that the person has voluntarily given consent; and

(c) the day and time when the consent was given.

(3) An entry by an authorised officer because of a person's consent is not lawful unless the consent was voluntary.

(4) If—

(a) it is material, in any proceedings, for a court to be satisfied that the consent of a person for section 96 (1) (b) was voluntary; and

(b) an acknowledgment, in accordance with subsection (2), signed by the person is not produced in evidence;

the court must assume, unless the contrary intention is proved, that the consent was not voluntary.

104 Search warrants

(1) If—

(a) an information is laid before a magistrate alleging that an authorised officer has reasonable grounds for suspecting that there may be on any premises a thing of a particular kind connected with a particular offence against this Act; and

(b) the information sets out those grounds;

the magistrate may issue a search warrant authorising the authorised officer named in the warrant, with the assistance and by the force that is necessary and reasonable—

(c) to enter the premises described in the warrant; and

(d) to search the premises for things of the kind mentioned in paragraph (a); and

(e) to exercise any of the powers listed in section 100 in relation to those things.

(2) A magistrate must not issue a warrant unless—

(a) the informant or another person has given the magistrate, either orally on oath or by affidavit, any further information that the magistrate requires about the grounds on which the issue of the warrant is being sought; and

(b) the magistrate is satisfied that there are reasonable grounds for issuing the warrant.

(3) A warrant must—

(a) state the purpose for which it is issued, including a reference to the nature of the offence in relation to which the entry and search is authorised; and

(b) state that the entry is authorised at any time of the day or night, or specify particular hours during which the entry is authorised; and

(c) include a description of the kind of things in relation to which the powers listed in section 100 may be exercised; and

(d) specify a date, not later than 1 month after the date the warrant is issued, when the warrant ceases to have effect.

(4) If in the course of searching under a warrant for things of a particular kind connected with a particular offence, an authorised officer—

(a) finds a thing that the officer has reasonable grounds for believing to be—

(i) connected with the offence, although not a thing of the kind specified in the warrant; or

(ii) connected with another offence against this Act; and

(b) is satisfied that it is necessary to exercise any of the powers listed in section 100 in relation to the thing to prevent the committing, continuing or repeating of the offence or the other offence;

the warrant must be taken to authorise the officer to exercise those powers in relation to that thing.

Division 11.3 Emergency powers

105 Emergency situations

This division applies if an authorised officer—

(a) has reasonable grounds for believing that serious or material environmental harm has been or is likely to be caused, other than harm permitted by or under this Act; and

(b) is satisfied that it is necessary to take immediate action to prevent, minimise or remedy the harm (in this division called ***emergency action***).

106 Taking or directing action

(1) The authorised officer must, orally or in writing, direct another person who is present on the relevant premises to take emergency action if the authorised officer has reasonable grounds for believing that the person has the appropriate practical or technical knowledge and authority to take the action.

(2) If the authorised officer does not have belief of the kind mentioned in subsection (1), the authorised officer may take emergency action.

(3) The authorised officer must confirm an oral direction in writing as soon as practicable.

107 Entry and exercise of powers

(1) The authorised officer may—

(a) for the purposes of taking emergency action, enter any premises (other than residential premises) at any time of the day or night—

(i) without a warrant; and

(ii) with the assistance, and by the force, that is necessary and reasonable; and

(b) in the course of taking emergency action, exercise any of the powers listed in section 100.

(2) An authorised officer who enters premises under subsection (1) (a) is not authorised to remain on the premises if, on request by the occupier or a person apparently in charge of the premises, the officer does not produce his or her identity card.

Division 11.4 Seizure, retention and disposal of things

108 Seizure

(1) An authorised officer may seize anything under a power of seizure under this part if the officer has reasonable grounds for believing that it is connected with an offence against this Act and—

(a) the seizure is necessary to prevent the thing being—

(i) concealed, lost, damaged or destroyed; or

(ii) used to commit the offence; or

(b) the seizure is necessary to conduct tests for the purpose of adducing evidence in a prosecution for the offence.

(2) A person must not, without the written consent of the authority—

(a) interfere with or dispose of a thing seized under this part; or

(b) remove the thing from the premises where it was seized or to which it was taken by the authorised officer who seized it.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(3) If an authorised officer has seized a thing under this part, the officer must give a receipt for the thing to—

(a) the occupier of the premises where it was seized; or

(b) the person who had possession, custody or control of the thing immediately before it was seized.

109 Retention to adduce evidence

(1) The following provisions apply in relation to anything seized under this part:

(a) the thing must be held by the authority for the purpose of adducing evidence in a prosecution for an offence against this Act, unless the authority authorises the release of the thing to its owner or the person who had possession, custody or control of the thing immediately before it was seized;

(b) if a prosecution for an offence against this Act is instituted within the prescribed period and the defendant is found guilty—the court may order that—

(i) the thing be forfeited to the authority; or

(ii) the defendant pay to the authority an amount equal to the market value of the thing at the time of the seizure, being the value decided by the court;

(c) if—

(i) a prosecution for an offence against this Act is not instituted within the prescribed period; or

(ii) on such a prosecution being instituted within that period, the defendant is found not guilty or the court does not make an order under paragraph (b);

the authority must, subject to section 110, release the thing to its owner or the person who had possession, custody or control of the thing immediately before it was seized.

(2) In subsection (1):

prescribed period means the period of 6 months beginning on the day after the seizure.

110 Disposal

(1) Instead of releasing a thing under section 109 (1) (c), the authority may give written notice to—

(a) the owner of the thing; or

(b) the person who had possession, custody or control of the thing immediately before it was seized;

inviting the person to show why the thing should not be disposed of.

(2) Despite subsection (1), the authority must, at the same time as giving notice under that subsection, by notice in a daily newspaper, invite people who have a legal or equitable interest in the thing to be disposed of to show why it should not be disposed of.

(3) A notice under subsection (1) or (2) must specify—

(a) the grounds on which the authority bases his or her belief that the disposal of the thing is necessary; and

(b) the period (not shorter than 20 working days after the day on which the notice was given) after which the authority may cause the thing to be disposed of under subsection (4).

(4) The authority must—

(a) after the period specified in a notice under subsection (1) or (2) has ended; and

(b) after taking into account any representations made in response to the notice;

dispose of the thing if satisfied that the disposal is necessary to prevent or minimise any environmental harm caused, or likely to be caused, by the thing.

(5) If the authority is not satisfied that it is necessary to dispose of a thing, the authority must release the thing to its owner or the person who had possession, custody or control of the thing immediately before it was seized.

(6) If a thing is disposed of under subsection (4), the Territory must compensate the owner.

Division 11.5 Other powers

111 Power to require name and address

(1) If an authorised officer—

(a) finds a person committing an offence against this Act; or

(b) has reasonable grounds for believing that a person has committed an offence against this Act;

the officer—

(c) may require the person to state the person's name and address; and

(d) in doing so, must —

(i) inform the person of the reasons for the requirement; and

(ii) as soon as practicable afterwards, record those reasons.

(2) A person is not required to comply with a requirement under subsection (1) if, on request by the person, the authorised officer does not produce his or her identity card.

(3) Subject to subsection (2), a person must not, without reasonable excuse, fail to comply with a requirement under subsection (1).

Maximum penalty: 5 penalty units.

Part 12 Powers of analysts

112 Entry of premises

(1) An analyst may accompany an authorised officer who has entered premises under a power of entry under part 11 to conduct the tests necessary to decide whether this Act is being complied with.

(2) A person must not, without reasonable excuse, obstruct or hinder an analyst in the exercise of his or her powers under subsection (1).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(3) An analyst who enters premises under subsection (1) is not authorised to remain on the premises if, on request by the occupier or a person apparently in charge of the premises, the analyst does not produce his or her identity card.

113 Evidence of analysis

A certificate purporting to be signed by an analyst—

(a) stating that he or she has analysed, or caused to be analysed, a sample from a sealed container to which was attached a label purporting to be signed by the authorised officer named in the certificate and bearing particulars of the date and time when, and the place where, the sample was taken by the authorised officer; and

(b) describing the analysis to which the sample was subjected; and

(c) setting out the results of the analysis;

is evidence of the matters so stated.

Part 13 Enforcement

Division 13.2 Environment protection orders

125 Environment protection orders

(1) If the authority has reasonable grounds for believing that a person has contravened or is contravening an environmental authorisation or a provision of this Act, the authority may serve an environment protection order on the person.

(2) If the authority is satisfied that land is contaminated, but has reasonable grounds for believing that if the land were—

(a) to continue to be used for its present use; or

(b) to be used for a specified use, or a use in a specified class of uses, other than its present use;

it would not cause, or would not be likely to cause, a significant risk of harm to human health or a significant risk of material environmental harm or serious environmental harm, the authority may serve an environment protection order on the occupier of the land and, if the occupier is not the lessee, on the lessee.

(3) If the authority is satisfied that land is contaminated but has reasonable grounds for believing that the contamination is not, or is not likely to, cause a significant risk of harm to human health or a significant risk of material environmental harm or serious environmental harm while measures for its containment continue, the authority may serve an environment protection order on the occupier of the land and, if the occupier is not the lessee, on the lessee.

(4) An order must be in writing and must—

(a) identify the person on whom the order is served; and

(b) if the order is grounded on a contravention of this Act, specify—

(i) the provision of this Act alleged to have been contravened; and

(ii) the nature of, and the day, time and place of, the alleged contravention; and

(c) if the order is grounded on a contravention of an environmental authorisation, specify—

(i) the condition of the authorisation alleged to have been contravened; and

(ii) the nature of, and the day, time and place of, the alleged contravention; and

(d) if the order is served under subsection (2) or (3)—

(i) the nature of the substances in, on or under the land the subject of the order; and

(ii) the grounds on which the authority holds its belief; and

(e) require that specified action be taken, stopped or not begun by the person; and

(f) set out the maximum penalty, on conviction, for a failure to comply with the order.

(5) An order may impose any requirement reasonably required for the purposes for which the order is served, including 1 or more of the following:

(a) that the person stop or not begin a specified activity indefinitely or for a specified period;

(b) that the person undertake, within a specified period—

(i) specified action to remedy specified environmental harm; and

(ii) if appropriate, specified action to prevent or mitigate further environmental harm;

(c) that the person undertake, within a specified period, specified action for the restoration of the environment in a public place or for the public benefit;

(d) that the person undertake, within a specified period, any other specified action;

(e) that the person not conduct a specified activity except during specified times or subject to specified conditions;

(f) that the person provide specified information to the authority in relation to the environmental impact of an activity being conducted by the person.

(6) In this section, a reference to a ***contravention*** of this Act includes a reference to a failure to comply with the general environmental duty.

126 Contravention of environment protection order

A person must not contravene an environment protection order.

Maximum penalty:

(a) if the order was grounded on a contravention of this Act and this Act specifies a penalty for the contravention—that penalty; or

(b) if the order was grounded on a contravention of an environmental authorisation and this Act specifies a penalty for the contravention—that penalty; or

(c) in any other case—200 penalty units.

Division 13.3 Injunctive orders

127 Application for order

(1) An application for an order under section 128 may be made to the Supreme Court by—

(a) the authority; or

(b) any other person with leave of the court.

(2) The court must not grant leave under subsection (1) (b) unless satisfied that—

(a) the person has requested the authority to take action under the Act and the authority has failed, within a time that is reasonable in the circumstances, to notify the person in writing that it has taken any action that is appropriate in the circumstances; and

(b) it is in the public interest that the proceedings should be brought.

128 Making of order

(1) If the Supreme Court is satisfied—

(a) that—

(i) the respondent has contravened or is contravening; or

(ii) there is a significant likelihood that the respondent will contravene;

an environmental authorisation, an environment protection order or a provision of this Act; and

(b) that, as a result, serious or material environmental harm has happened, is happening or is likely to happen;

the court may make—

(c) an order requiring the respondent to remedy the contravention; or

(d) an order restraining the respondent from continuing to commit the contravention; or

(e) an order restraining the respondent from committing the threatened or anticipated contravention;

and any other orders the court considers appropriate for the purpose of giving effect to that order.

(2) An order under subsection (1) must specify the date on or before which the order is to be complied with.

(3) The court may make an order under subsection (1) directing the respondent to stop doing a particular thing, whether or not—

(a) it appears to the court that the respondent intends to do the thing or continue to do the thing; or

(b) the respondent has previously done a thing of that kind; or

(c) there is a potential for serious or material environmental harm to result if the respondent does the thing or continues to do the thing.

(4) The court may make an order under subsection (1) directing the respondent to do a particular thing, whether or not—

(a) it appears to the court that the respondent does not intend to do the thing or continue to do the thing; or

(b) the respondent has previously not done a thing of that kind; or

(c) there is a potential for serious or material environmental harm to result if the respondent does not do the thing.

129 Interim order

(1) If—

(a) an application for an order under section 128 is pending; and

(b) the Supreme Court is satisfied that there is a real or significant likelihood of serious or material environmental harm happening before the application is determined;

the court may make an interim order of the kind described in section 128 (1) (c), (d) or (e) and any other orders the court considers appropriate.

(2) An interim order under subsection (1) remains in force—

(a) if a copy of the application has not been served on the respondent—

(i) until the court otherwise orders; or

(ii) for the period (not longer than 14 days) specified in the order;

whichever happens first; or

(b) if a copy of the application has been served on the respondent—

(i) until the court otherwise orders; or

(ii) until the court decides the application;

whichever happens first.

130 Costs—public interest

In deciding the amount of costs to be awarded against a party to a proceeding under section 128 or section 129, the Supreme Court must take into account the nature of the public interest.

131 Security for costs etc

The Supreme Court may order an applicant for an order under section 128—

(a) to provide security for the payment of costs that may be awarded against the applicant if the application is subsequently dismissed; or

(b) to give an undertaking about the payment of any amount that may be awarded against the applicant under section 132.

132 Compensation

If, on an application for an order under section 128 alleging that there has been a contravention of an environmental authorisation, an environment protection order or a provision of this Act, the Supreme Court is satisfied that—

(a) there has been no such contravention by the respondent; and

(b) the respondent has suffered loss or damage as a result of the actions of the applicant in bringing the proceedings; and

(c) in the circumstances it is appropriate to make an order under this subsection;

the court may, on the application of the respondent (and in addition to any order about costs), order the applicant to pay to the respondent an amount, decided by the court, to compensate the respondent for the loss or damage suffered by the respondent.

Division 13.4 Power to require information

133 Information discovery orders

(1) If the authority has reasonable grounds for suspecting that a person—

(a) has information reasonably required by the authority for the administration or enforcement of this Act; or

(b) has possession or control of a document containing such information;

the authority may serve on the person an information discovery order requiring the person to give the information or produce the document.

(2) An order must be in writing and must —

(a) identify the person on whom the order is served; and

(b) specify why the information is required; and

(c) specify the date on or before which the order must be complied with; and

(d) set out the maximum penalty, on conviction, for a failure to comply with the order.

134 Contravention of information discovery order

A person must not contravene an information discovery order.

Maximum penalty: 100 penalty units.

Part 14 Notification and review of decisions

135 Definitions—pt 14

In this part:

internally reviewable decision means a decision mentioned in schedule 3, column 3 under a provision of this Act mentioned in column 2 in relation to the decision.

reviewable decision means—

(a) a decision mentioned in schedule 3, column 3 under a provision of this Act mentioned in column 2 in relation to the decision; or

(b) a decision made on internal review.

136 Internal review and reviewable decision notices

(1) If the authority makes an internally reviewable decision, the authority must give an internal review notice to each entity mentioned in schedule 3, column 4 in relation to the decision.

(2) If the authority makes a reviewable decision, the authority must give a reviewable decision notice to each entity mentioned in schedule 3, column 4 in relation to the decision.

Note 1 The authority must also take reasonable steps to give an internal review notice and a reviewable decision notice to anyone whose interests are affected by the decision (see *ACT Civil and Administrative Tribunal Act 2008*, s 67A and s 67B).

Note 2 The requirements for internal review notices and reviewable decision notices are prescribed under the *ACT Civil and Administrative Tribunal Act 2008*.

136A Applications for internal review

(1) The following may apply to the authority for review of an internally reviewable decision:

(a) an entity mentioned in schedule 3, column 4 in relation to the decision;

(b) any other person whose interests are affected by the decision.

(2) The application must—

(a) be in writing; and

(b) state the applicant's name and address; and

(c) set out the applicant's reasons for making the application.

(3) The application must be given to the authority within—

(a) 14 days after the day the applicant is given the internal review notice for the decision; or

(b) any longer period allowed by the authority before or after the end of the 14-day period.

136B Applications not stay internally reviewable decisions

The making of an application for review of an internally reviewable decision does not affect the operation of the decision.

136C Review by authority

(1) The authority must review the internally reviewable decision.

(2) The review must happen within 28 days (the ***28-day period***) after the day the authority receives the application for review of the internally reviewable decision.

(3) The authority must—

(a) confirm the decision; or

(b) vary the decision; or

(c) set aside the decision and substitute another decision.

(4) If the decision is not varied or set aside within the 28-day period, the decision is taken to have been confirmed by the authority.

136D Applications for review

The following may apply to the ACAT for review of a reviewable decision:

(a) an entity mentioned in schedule 3, column 4 in relation to the decision;

(b) any other person whose interests are affected by the decision.

Note If a form is approved under the *ACT Civil and Administrative Tribunal Act 2008* for the application, the form must be used.

Part 14A Enforceable undertakings

136E Definitions—pt 14A

In this part:

enforceable undertaking means an environmental undertaking that has been accepted under section 136G.

environmental undertaking—see section 136F (2).

136F Making of environmental undertakings

(1) This section applies if the authority alleges that a person has committed an offence against division 15.1 (Environmental offences).

(2) The person may give the authority a written undertaking (an ***environmental undertaking***) in relation to the offence.

(3) The environmental undertaking must—

(a) state that, on acceptance by the authority, it is an enforceable undertaking under this Act; and

(b) acknowledge that the authority alleges that the person has committed an offence against a stated provision of this Act; and

(c) identify the facts and circumstances of the alleged offence; and

(d) include 1 or more undertakings relating to the alleged offence.

Examples—undertakings

1 to stop certain conduct

2 to take particular action to compensate people adversely affected by an alleged offence committed against a stated provision of this Act

3 to take particular action to rectify a state of affairs that arose as a direct or indirect result of the alleged offence

4 to take particular action (including implementing particular systems) to prevent future offences against this Act

5 to implement publicity or education programs

Note An example is part of the Act, 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).

136G Acceptance of environmental undertaking

(1) The authority may accept an environmental undertaking by written notice given to the person who gave the undertaking.

(2) On acceptance of the undertaking, the undertaking becomes an enforceable undertaking.

136H Withdrawal from or amendment of enforceable undertaking

(1) The person who gave an enforceable undertaking may withdraw from or amend the undertaking only with the authority's written agreement.

(2) However, the undertaking may not be amended to provide for a different alleged offence.

136I Ending enforceable undertaking

(1) The authority may end an enforceable undertaking by written notice to the person who gave the undertaking if satisfied that the undertaking is no longer necessary or desirable.

(2) The authority may act under subsection (1) on the authority's own initiative or on the application of the person who gave the undertaking.

(3) The undertaking ends when the person who gave the undertaking receives the authority's notice.

136J Undertaking not admission of fault etc

(1) This section applies if a person gives the authority an environmental undertaking in relation to an alleged offence, whether or not the undertaking is accepted by the authority.

(2) Giving the environmental undertaking is not—

(a) an express or implied admission of fault or liability by the person in relation to the alleged offence; and

(b) relevant to deciding fault or liability in relation to the alleged offence.

136K Contravention of enforceable undertakings

(1) If the authority believes on reasonable grounds that an enforceable undertaking has been contravened by anyone, the authority may apply to the Magistrates Court for an order under subsection (2).

(2) If the Magistrates Court is satisfied that the enforceable undertaking has been contravened, the court may make 1 or more of the following orders:

(a) an order requiring the person who gave the undertaking to ensure that the undertaking is not contravened;

(b) an order requiring the person who gave the undertaking to pay to the Territory the amount assessed by the court as the value of the benefits anyone derived, directly or indirectly, from the contravention of the undertaking;

(c) an order that the court considers appropriate requiring the person who gave the undertaking to compensate someone who has suffered loss or damage because of the contravention of the undertaking;

(d) any other order that the court considers appropriate.

(3) A person commits an offence if the person fails to take all reasonable steps to comply with an order under subsection (2).

Maximum penalty: 200 penalty units.

136L Effect of enforceable undertaking on other proceedings

A proceeding may not be brought against a person for an alleged offence against division 15.1 (Environmental offences) if—

(a) an enforceable undertaking is in force in relation to the alleged offence; or

(b) the person has complied with an enforceable undertaking in relation to the alleged offence.

Part 15 Offences

Division 15.1 Environmental offences

Subdivision 15.1.1 General environmental offences

137 Causing serious environmental harm or likely serious environmental harm

(1) A person must not knowingly or recklessly pollute the environment causing serious environmental harm or likely serious environmental harm.

Maximum penalty: 2 000 penalty units, imprisonment for 5 years or both.

(2) A person must not negligently pollute the environment causing serious environmental harm or likely serious environmental harm.

Maximum penalty: 1 500 penalty units, imprisonment for 3 years or both.

(3) A person must not pollute the environment causing serious environmental harm or likely serious environmental harm.

Maximum penalty: 1 000 penalty units.

(4) If in a proceeding for an offence against subsection (1), the court is not satisfied that the defendant is guilty of the offence charged but is satisfied that the defendant is guilty of an offence against subsection (2), the court may find the defendant guilty of the latter offence.

(5) If in a proceeding for an offence against subsection (1) or subsection (2), the court is not satisfied that the defendant is guilty of the offence charged but is satisfied that the defendant is guilty of an offence against subsection (3), the court may find the defendant guilty of the latter offence.

138 Causing material environmental harm or likely material environmental harm

(1) A person must not knowingly or recklessly pollute the environment causing material environmental harm or likely material environmental harm.

Maximum penalty: 1 000 penalty units, imprisonment for 2 years or both.

(2) A person must not negligently pollute the environment causing material environmental harm or likely material environmental harm.

Maximum penalty: 750 penalty units, imprisonment for 1 year or both.

(3) A person must not pollute the environment causing material environmental harm or likely material environmental harm.

Maximum penalty: 500 penalty units.

(4) If in a proceeding for an offence against subsection (1), the court is not satisfied that the defendant is guilty of the offence charged but is satisfied that the defendant is guilty of an offence against subsection (2), the court may find the defendant guilty of the latter offence.

(5) If in a proceeding for an offence against subsection (1) or subsection (2), the court is not satisfied that the defendant is guilty of the offence charged but is satisfied that the defendant is guilty of an offence against subsection (3), the court may find the defendant guilty of the latter offence.

139 Causing environmental harm or likely environmental harm

(1) A person must not knowingly or recklessly pollute the environment causing environmental harm or likely environmental harm.

Maximum penalty: 100 penalty units, imprisonment for 6 months or both.

(2) A person must not negligently pollute the environment causing environmental harm or likely environmental harm.

Maximum penalty: 75 penalty units.

(3) A person must not pollute the environment causing environmental harm or likely environmental harm.

Maximum penalty: 50 penalty units.

(4) If in a proceeding for an offence against subsection (1), the court is not satisfied that the defendant is guilty of the offence charged but is satisfied that the defendant is guilty of an offence against subsection (2), the court may find the defendant guilty of the latter offence.

(5) If in a proceeding for an offence against subsection (1) or (2), the court is not satisfied that the defendant is guilty of the offence charged but is satisfied that the defendant is guilty of an offence against subsection (3), the court may find the defendant guilty of the latter offence.

140 Person may be found guilty of lesser charge

(1) If in a proceeding for an offence against section 137, the court is not satisfied that the defendant is guilty of the offence charged but is satisfied that the defendant is guilty of an offence against section 138 (1), (2) or (3), the court may find the defendant guilty of the latter offence.

(2) If in a proceeding for an offence against section 137 or section 138, the court is not satisfied that the defendant is guilty of the offence charged but is satisfied that the defendant is guilty of an offence against section 139 (1), (2) or (3), the court may find the defendant guilty of the latter offence.

141 Causing environmental nuisance

A person must not cause an environmental nuisance.

Maximum penalty: 50 penalty units.

142 Placing pollutant where it could cause harm

A person must not cause or allow a pollutant or the source of a pollutant to be placed in a position as a result of which the pollutant could reasonably be expected to cause environmental harm.

Maximum penalty: 100 penalty units.

143 No offence committed

A person does not commit an offence against section 137, section 138, section 139, section 141 or section 142 if—

(a) the act or omission that would apart from this provision have constituted the offence or an element of the offence was authorised by or under this Act; or

(b) in any other case—

  (i) the act or omission that would apart from this provision have constituted the offence or an element of the offence happened during the conduct of an activity that was, apart from this Act, lawful; and

  (ii) in conducting the activity, the person was complying with the general environmental duty.

144 Liability limited to harm caused by excess pollutants

For section 137, section 138 and section 139, if a person causes environmental harm or likely environmental harm by causing the entry into the environment of a measure of a pollutant that exceeds the measure authorised by or under this Act, the person is liable to be prosecuted only in relation to the environmental harm or likely environmental harm caused by the excess pollutant.

Subdivision 15.1.2 Specific offences

145 Offences in schedule 2

Certain offences against this Act are specified in schedule 2.

Division 15.2 Extensions of liability for offences

146 Acts and omissions of representatives

(1) In this section:

person means an individual.

Note See the Criminal Code, pt 2.5 for provisions about corporate criminal responsibility.

representative, of a person, means an employee or agent of the person.

state of mind, of a person, includes—

(a) the person's knowledge, intention, opinion, belief or purpose; and

(b) the person's reasons for the intention, opinion, belief or purpose.

(2) This section applies to a prosecution for any offence against this Act.

(3) If it is relevant to prove a person's state of mind about an act or omission, it is enough to show—

(a) the act was done or omission made by a representative of the person within the scope of the representative's actual or apparent authority; and

(b) the representative had the state of mind.

(4) An act done or omitted to be done on behalf of a person by a representative of the person within the scope of the representative's actual or apparent authority is also taken to have been done or omitted to be done by the person.

(5) However, subsection (4) does not apply if the person establishes that reasonable precautions were taken and appropriate diligence was exercised to avoid the act or omission.

(6) A person who is convicted of an offence cannot be punished by imprisonment for the offence if the person would not have been convicted of the offence without subsection (3) or (4).

147 Criminal liability of executive officers

(1) An executive officer of a corporation commits an offence if—

(a) the corporation commits a relevant offence; and

(b) the officer was reckless about whether the relevant offence would be committed; and

(c) the officer was in a position to influence the conduct of the corporation in relation to the commission of the relevant offence; and

(d) the officer failed to take reasonable steps to prevent the commission of the relevant offence.

Maximum penalty: The maximum penalty that may be imposed for the commission of the relevant offence by an individual.

(2) In deciding whether the executive officer took (or failed to take) all reasonable steps to prevent the commission of the offence, a court must consider any action the officer took directed towards ensuring the following (to the extent that the action is relevant to the act or omission):

(a) that the corporation arranges regular professional assessments of the corporation's compliance with the provision to which the relevant offence relates;

(b) that the corporation implements any appropriate recommendation arising from such an assessment;

(c) that the corporation's employees, agents and contractors have a reasonable knowledge and understanding of the requirement to comply with the provision to which the relevant offence relates;

(d) any action the officer took when the officer became aware that the relevant offence was, or might be, about to be committed.

(3) Subsection (2) does not limit the matters the court may consider.

(4) Subsection (1) does not apply if the corporation would have a defence to a prosecution for the relevant offence.

Note The defendant has an evidential burden in relation to the matters mentioned in s (4) (see Criminal Code, s 58).

(5) This section applies whether or not the corporation is prosecuted for, or convicted of, the relevant offence.

(6) In this section:

executive officer, of a corporation, means a person, by whatever name called and whether or not the person is a director of the corporation, who is concerned with, or takes part in, the corporation's management.

relevant offence means an offence against any of the following:

(a) section 42 (Conducting prescribed classes of activities);

(b) section 44 (Conducting activities other than prescribed activities);

(c) section 45 (Compliance with authorisation);

(d) section 91D (Order to remediate land);

(e) section 126 (Contravention of environment protection order);

(f) section 137 (Causing serious environmental harm or likely serious environmental harm);

(g) section 138 (Causing material environmental harm or likely material environmental harm);

(h) section 139 (Causing environmental harm or likely environmental harm);

(i) section 141 (Causing environmental nuisance);

(j) section 142 (Placing pollutant where it could cause harm);

(k) section 159A (National pollutant inventory—provision of information).

Division 15.3 Other offences

148 Notice to transferee on transfer of activity or place

(1) Before transferring ownership of an activity or place in relation to which an instrument is in effect, the transferor must not, without reasonable excuse, fail to notify the transferee of the existence and content of the instrument.

Maximum penalty: 20 penalty units.

(2) In subsection (1):

instrument means—

(a) an environmental authorisation; or

(b) an environmental protection agreement; or

(c) a notice under section 69 requiring a person to prepare and submit to the authority a draft environmental improvement plan; or

(d) a notice under section 76 requiring a person to commission an environmental audit; or

(e) a notice under section 82 requiring a person to prepare and submit to the authority a draft emergency plan; or

(f) an environment protection order.

149 Notice to authority of alteration to equipment and works

(1) The holder of an environmental authorisation must notify the authority in writing of any proposed installation, construction or modification to prescribed equipment and works in or on the premises on which the authorised activity is being, or is proposed to be, conducted.

Maximum penalty: 20 penalty units.

(2) For subsection (1), it is sufficient notification if the holder of the authorisation gives to the authority a copy of—

(a) the application under the *Planning and Development Act 2007*, chapter 7 for approval to undertake the development; or

(b) the application under the *Building Act 2004*, part 3 for a building approval to carry out the relevant building work.

(3) The authority may, within 10 days after receiving notification of a proposal under subsection (1), require the holder of the environmental authorisation to provide further specified information (including plans and drawings) about the proposal by the specified date.

(4) A person must not fail to comply with a notice under subsection (3).

Maximum penalty: 50 penalty units.

(5) In subsection (1):

prescribed equipment and works, in relation to premises, means equipment or works for—

(a) the discharge or emission of a pollutant from the premises; or

(b) the treatment or storage of a pollutant before such discharge or emission.

150 Self-incrimination

(1) A person (whether an individual or corporation) is not excused from answering a question, giving information or producing a document if required under this Act on the ground that to do so would tend to incriminate the person.

(2) If an individual answers a question, gives information or produces a document in compliance with a requirement under section 100 (2), section 101 or section 133—

(a) the answer to the question; or

(b) the information given; or

(c) the document produced;

is not admissible in evidence against the person in any proceedings (whether civil or criminal), other than proceedings for an offence against section 151 or the Criminal Code, part 3.4 (False or misleading statements, information and documents) or section 361 (Obstructing territory public official).

151 Failing to comply with requirement of inspector

A person must not, without reasonable excuse, fail to comply with a requirement made, or direction given, by an authorised officer under this Act.

Maximum penalty: 50 penalty units.

Division 15.4 Defences

153 Due diligence

(1) It is a defence to a prosecution for an offence against section 137, section 138, section 139, section 141, section 142 or section 147, or an offence against a regulation that is prescribed for this section, that the defendant exercised due diligence to prevent the act or omission alleged to constitute the offence or an element of the offence.

(2) Without subsection (1), in deciding whether the defendant exercised due diligence, the court may have regard to—

(a) if the defendant is a corporation—the steps taken by it—

(i) to ensure that people employed or engaged by it were aware of the requirements of this Act and any relevant environmental laws and standards relating to the prevention or minimisation of environmental harm or likely environmental harm; or

(ii) to ensure compliance with those laws and standards by those people; or

(iii) to establish an environmental management system and to ensure implementation and compliance with it; or

(b) if the defendant was the director of a corporation or other person responsible for the management of the activity in relation to which the environmental harm or likely environmental harm happened—

(i) whether the defendant was personally familiar with the requirements of this Act and any relevant environmental laws and standards relating to the prevention or minimisation of environmental harm or likely environmental harm; or

(ii) whether the defendant had taken all reasonable steps to comply with those laws and standards; or

(iii) the steps taken by the defendant to ensure other people for whom it was relevant were familiar with this Act and any relevant laws and standards, and compliance with those laws and standards by those people; or

(iv) the steps taken by the defendant to establish an environmental management system and to ensure familiarity and compliance with it by other people for whom it was relevant; or

(v) whether the defendant reacted immediately and personally when the defendant became aware of any noncompliance with the environmental management system or other incident connected with the environmental harm or likely environmental harm that happened; or

(c) if the defendant was an employee or other person whose responsibilities did not extend to the management of the activity in relation to which the environmental harm or likely environmental harm happened—

(i) whether the defendant had taken all reasonable steps to become familiar with this Act and any relevant environmental laws and standards relating to the prevention or minimisation of environmental harm or likely environmental harm; or

(ii) whether the defendant had taken all reasonable steps to comply with those laws and standards; or

(iii) whether the defendant had taken all reasonable steps to become familiar, and comply, with any environmental management system established by the corporation to the extent that the system is relevant to his or her position; or

(iv) the steps taken by the defendant to prevent or minimise environmental harm or likely environmental harm when the defendant became aware of any incident connected with the environmental harm or likely environmental harm that happened or the likelihood of any such incident.

154 Defence of emergency

(1) Subject to subsection (2), it is a defence to a prosecution for an offence against section 45, section 137, section 138, section 139, section 141 or section 142, or an offence against a regulation that is prescribed for this section, that—

(a) the act or omission alleged to constitute the offence or an element of the offence was necessary to protect life, the environment or property in an emergency situation; and

(b) the defendant took all reasonable and practicable measures to prevent or deal with the emergency.

(2) Subsection (1) does not apply in relation to a prosecution for an offence against section 137 (1), section 138 (1) or section 139 (1) for recklessly polluting the environment causing environmental harm or likely environmental harm.

(3) A reference in subsection (1) to an act or omission alleged to constitute an offence or an element of an offence is, in relation to an offence against section 147 (1), a reference to the act or omission alleged to constitute the offence or an element of the offence committed by the corporation.

Division 15.5 General

155 Strict liability offences

Subject to section 153 and section 154, an offence against section 45, section 126, section 137 (3), section 138 (3), section 139 (3), section 141 or section 142, or an offence against a regulation that is prescribed for this section, are offences of strict liability.

156 Continuing offences

If an offence against this Act is alleged to have been committed by a person, in addition to the penalty otherwise applicable to the offence, the person is liable to a penalty for each day during which the act or omission continues of not more than an amount equal to 20% of the maximum penalty prescribed for that offence.

157 Additional court orders

(1) If a court finds a person guilty of an offence against this Act that resulted in environmental harm or likely environmental harm (whether or not the causing of environmental harm or likely environmental harm was an element of the offence), in addition to any penalty it may impose, the court may—

(a) order the person to take specified action to remedy or mitigate the environmental harm or likely environmental harm and, if appropriate, specified action to prevent further environmental harm or likely environmental harm; or

(b) order the person to carry out specified action for the restoration or enhancement of the environment in a public place or for the public benefit; or

(c) order the person to take specified action to publicise—

(i) the contravention and its environmental and other consequences; and

(ii) any other orders made against the person; or

(d) order the person to pay the amount decided by the court—

(i) to the Territory for any reasonable costs and expenses incurred by the Territory in taking action to remedy or mitigate the environmental harm or likely environmental harm or prevent further harm; or

(ii) to any other person as compensation for any injury, loss or damage to property as a result of the contravention or for costs reasonably incurred by the person in taking action to prevent or mitigate such injury, loss or damage;

and may make any other orders that the court considers necessary or convenient for the enforcement of an order under this section.

(2) If the court finds a person guilty of an offence against this Act, the court may, on the application of the authority, make 1 or more of the following orders:

(a) that the person pay the reasonable costs and expenses of the authority incurred in relation to taking samples, conducting tests or collecting other evidence for the purposes of the proceeding;

(b) that the person pay the legal costs of the authority incurred in relation to conducting the proceeding;

(c) that the person pay any other specified costs or expenses incurred by the authority in relation to conducting the proceeding.

158 Matters to be considered in imposing penalty

In imposing a penalty for an offence against this Act, a court must take into consideration (in addition to any other matter the court considers relevant)—

(a) the extent of the harm caused or likely to be caused to the environment by the commission of the offence; and

(b) the practical measures that may be taken to prevent, control, abate or mitigate that harm; and

(c) the extent to which the person who committed the offence could reasonably have foreseen the harm caused or likely to be caused to the environment by the commission of the offence; and

(d) the extent to which the person who committed the offence had control over the causes that gave rise to the offence; and

(e) whether, in committing the offence, the person was complying with orders from an employer or a supervising employee.

Part 16 Miscellaneous

159 Authorised acts and omissions

A person does not—

(a) contravene an environmental authorisation, an environment protection order or a provision of this Act; or

(b) breach an environmental protection agreement;

if the act or omission that would, apart from this provision, have constituted (whether in whole or in part) the contravention or breach was authorised by or under this Act.

159A National pollutant inventory—provision of information

(1) The occupier of a facility to which the national environment protection (national pollutant inventory) measure applies, must give to the authority information required to be provided by the occupier of the facility under that measure in accordance with the measure.

Maximum penalty: 10 penalty units.

Note If a form is approved under s 165A for information required under this section, the form must be used.

(2) In subsection (1):

national environment protection (national pollutant inventory) measure means the National Environment Protection (National Pollutant Inventory) Measure dated 27 February 1998, as in force from time to time, made under the *National Environment Protection Council Act 1994* .

160 Recovery of clean-up costs

(1) This section applies—

(a) if—

(i) an environment protection order requires a person to take specified action to remedy specified environmental harm or likely environmental harm; and

(ii) the person has failed to take the specified action; and

(iii) the authority has taken the specified action instead; or

(b) if—

(i) a person has breached the general environmental duty; and

(ii) environmental harm or likely environmental harm has been caused by the breach; and

(iii) it is impracticable to issue an environment protection order requiring the person to take action to remedy the harm; and

(iv) the authority has taken action to remedy the harm.

(2) The authority may give the person who failed to take the specified action or who breached the duty, a notice requiring the person to pay the specified amount, being the reasonable costs and expenses incurred by the authority in taking the action mentioned in subsection (1) (a) (iii) or (b) (iv).

(3) The notice must specify the date, not earlier than 20 working days after the date of the notice, on or before which the amount is required to be paid.

(4) If—

(a) the authority has given a person a notice under subsection (2); and

(b) the person has failed to pay the specified amount on or before the specified date;

so much of the amount as remains unpaid, together with interest on the unpaid amount, is a debt due to the Territory by that person.

Note A rate of interest may be determined under s 165 for this subsection.

161 Assessment of reasonable costs and expenses

For this Act, the reasonable costs and expenses that have been or would be incurred by the authority or another person in taking any action are to be assessed by reference to—

(a) the reasonable costs and expenses that would have been or would be incurred if an independent contractor had been or were to be engaged for the purpose of taking that action; and

(b) the reasonable administrative costs and expenses associated with the taking of that action.

162 Statutory declarations

(1) If a person is required under this Act to provide information to the authority, the authority may require that the truth of the information be verified by statutory declaration.

Note 1 The *Statutory Declarations Act 1959* (Cwlth) applies to the making of statutory declarations under ACT laws.

Note 2 It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see Criminal Code, pt 3.4).

(2) If the authority requires a person to verify information by statutory declaration, the person must not be taken to have provided the information as required unless it has been verified by statutory declaration.

163 Environmental record of directors, servants and agents

If, for this Act, it is necessary for the authority to consider the environmental record of a corporation or individual, the environmental record of a director, servant or agent of the corporation, or a servant or agent of the individual, may be taken to be part of the environmental record of the corporation or individual.

164 Evidentiary matters

(1) A certificate purporting to be signed by the authority stating that—

(a) on a specified date or during a specified period an environment protection policy was or was not in effect under section 24; or

(b) on a specified date or during a specified period, an environmental authorisation—

(i) was or was not held by a specified person; or

(ii) was or was not in effect; or

(iii) was or was not subject to a specified condition; or

(c) on a specified date, protection under section 78—

(i) was or was not granted in relation to a specified environmental audit report; or

(ii) was or was not subject to a specified condition; or

(d) on a specified date, a specified environmental improvement plan was or was not approved under section 71; or

(e) on a specified date, a specified emergency plan was or was not approved under section 84;

is evidence of the matters so stated.

(2) A certificate purporting to be signed by the planning and land authority stating that an area is an area to which the dictionary, definition of ***area of high conservation value***, paragraph (a), (c) or (d) applies is evidence of the matter stated.

164A Expiry of notifiable instruments

(1) This section applies to a notifiable instrument under any of the following provisions:

- section 25 (Consultation on draft environment protection policy);
- section 41 (Notification of environmental protection agreements);
- section 48 (Consultation on application for environmental authorisation);
- section 50 (Notification of grant);
- section 59 (Notification of review of environmental authorisations).

(2) If the notifiable instrument does not state when the instrument expires, the instrument expires 6 months after the day it is notified.

165 Determination of fees etc

(1) The Minister may determine—

(a) fees for this Act; or

(b) the annual percentage rate at which interest payable under section 90 (3), section 91K (3), section 91L or section 160 (4) is to be calculated; or

(c) the annual percentage rate at which interest accruing under section 91 (a) is to be calculated.

Note The Legislation Act contains provisions about the making of determinations and regulations relating to fees, charges and other amounts (see pt 6.3).

(2) A determination is a disallowable instrument.

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

165A Approved forms

(1) The authority may approve forms for this Act.

(2) If the authority approves a form for a particular purpose, the approved form must be used for that purpose.

Note For other provisions about forms, see Legislation Act, s 255.

(3) An approved form is a notifiable instrument.

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

166 Regulation-making power

(1) The Executive may make regulations for this Act.

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

(2) A regulation may make provision in relation to—

(a) applying, adopting or incorporating any instrument, as in force from time to time; or

(b) the sampling and analysis of pollutants.

Note 1 A statutory instrument may also apply, adopt or incorporate (with or without change) a law or instrument as in force at a particular time (see Legislation Act, s 47 (1)).

Note 2 If a statutory instrument applies, adopts or incorporates a law or instrument, the law or instrument may be taken to be a notifiable instrument that must be notified under the Legislation Act (see s 47 (2)-(6)).

Note 3 A reference to an instrument includes a reference to a provision of an instrument (see Legislation Act, s 14 (2)).

(3) A regulation may also prescribe offences for contraventions of a regulation and prescribe maximum penalties of not more than 10 penalty units for offences against a regulation.

(4) A regulation may make provision in relation to the distribution, purchase, sale, dispensation or use of petroleum products, including regulating or prohibiting certain conduct.

(5) A regulation may make provision in relation to the lighting, use or maintenance of a fire in the open air (other than a fire to which schedule 1, section 1.2, item 30 relates), including regulating or prohibiting certain conduct.

(6) A regulation may make provision in relation to—

(a) the manufacture, purchase, sale, storage, supply, transport, use, disposal, discharge or emission of, or other dealing with, a specified pollutant, article or other thing; or

(b) the servicing of equipment containing a specified pollutant, article or other thing; or

(c) the servicing of equipment used in relation to the manufacture, purchase, sale, storage, supply, transport, use, disposal, discharge or emission of, or other dealing with, a specified pollutant, article or other thing;

including regulating or prohibiting certain conduct.

(7) A regulation may make provision in relation to ambient environmental standards.

(8) A regulation may make provision in relation to preventing or limiting pollution on development sites, including regulating or prohibiting certain conduct.

(9) A regulation may amend schedule 1—

(a) by—

(i) amending activities mentioned in the schedule, or

(ii) adding activities to, or deleting activities from, the schedule; and

(b) by making any other amendments of that schedule arising from, connected with or consequential on an amendment under paragraph (a).

Schedule 1 Activities requiring environmental authorisation

(see s 42)

1.1 Definitions for sch 1

In this schedule:

airgun means a firearm, other than a paintball marker, that—

(a) can propel, or is designed to propel, a projectile by means of—

(i) any gas or mixture of gases, including air but not including a gas or mixture of gases generated by an explosive; or

(ii) a spring; and

(b) is operated or designed for operation by means of a trigger or similar device.

aquifer means a geological formation or structure, or an artificial landfill, permeated or capable of being permeated (whether permanently or intermittently) with water.

authorised concert venue means a concert venue where the holder of an environmental authorisation for the conduct of outdoor concert activities is authorised to conduct such an activity.

authorised motor racing venue means a motor racing venue where the holder of an environmental authorisation for the conduct of motor racing events is authorised to conduct such an activity.

blank fire firearm—see the *Firearms Act 1996*, dictionary.

bore means a bore, hole, well, excavation or other opening in the ground or an underground cavity (whether occurring naturally or having been artificially constructed or modified)—

(a) that is used, or is capable of being used, to intercept or collect ground water; or

(b) from which ground water is, or is capable of being, obtained or used; or

(c) that is used, or is capable of being used, for the disposal of water or waste below the surface of the ground; or

(d) that extends into an aquifer.

clinical waste—see the *Clinical Waste Act 1990*, dictionary.

concert means a public performance of music the primary purpose of which is to entertain.

concert venue means a place or location where a concert is being, or is proposed to be, conducted.

environmental standards means the ACT's Environmental Standards: Assessment and Classification of Liquid and Non-liquid Wastes published by Environment ACT, as in force for the time being.

firearm—

(a) means a gun, or other weapon, that is, or at any time was, capable of propelling a projectile by means of an explosive force, however caused; and

(b) includes an airgun; but

(c) does not include—

(i) a blank fire firearm; or

(ii) a paintball marker.

ground water means water occurring or obtained from below the surface of the ground, including water occurring in or obtained from a bore or an aquifer, but not including water occurring in or obtained from any other system for the distribution, reticulation, transportation, storage or treatment of water or waste.

hazardous component, of electronic waste, means any component of the electronic waste that has chemical, physical or biological properties with the potential to cause harm to a person, property or the environment.

live animal weight, for animals, means the weight of the animals calculated on the basis that—

(a) for birds—555 layer chickens, 1 100 broiler chickens, 310 ducks, 165 geese, 110 turkeys or 17 emus represent 1t; or

(b) for a stock feedlot—2 cattle, 13 goats, 2 horses or 22 sheep represent 1t; or

(c) for a stock saleyard—2 cattle, 13 goats, 2 horses, 22 sheep, 5 deer, 17 emus, 13 kangaroos, 5 breeding sows, 17 porker pigs or 11 baconer pigs represent 1t.

logging includes the cutting and removal of pulpwood.

mobile plant, for the processing of agricultural crops, means plant operated on a temporary basis at a place for not more than 6 months in a year.

motor racing event means—

(a) a motor vehicle race or practice for a motor vehicle race; or

(b) a motor vehicle reliability trial or speed test, including a trial or test for which the vehicles have been exempted under the road transport legislation from the provisions of that legislation about attaching silencers to the exhaust pipes of motor vehicles, rules of the road and speed limits during the trial or test.

paintball marker means a device that shoots capsules of paint, or a similar substance, for the game of paintball.

Note The Macquarie Dictionary, 4th ed, defines ***paintball*** as a game in which players participate in mock military skirmishes using guns which fire capsules of paint instead of bullets.

receiving waters means ground water or water in a waterway.

regulated waste—see section 1.1A.

road transport legislation—see the *Road Transport (General) Act 1999*, section 6.

stock—see the *Stock Act 2005*, dictionary.

stormwater means water run-off from an urban area that is normally collected by the stormwater system.

stormwater system means a system of pipes, gutters, drains, floodways and channels, being public works constructed to collect or transport stormwater in or through an urban area.

waste means any solid, liquid or gas, or any combination of them, that is a surplus product or unwanted by-product of an activity, whether the product or by-product is of value or not.

wastewater means water that is the by-product of an activity if the water—

(a) contains other matter (whether in a solid, liquid or gaseous state); or

(b) if added to receiving waters—has the potential to pollute those waters.

water includes water that contains impurities.

waterway means—

(a) a river, creek, stream or other natural channel in which water flows (whether permanently or intermittently); or

(b) a channel formed (whether in whole or part) by altering or relocating a waterway described in paragraph (a), and includes the stormwater system; or

(c) a lake, pond, lagoon or marsh (whether formed by geomorphic processes or by works) in which water collects (whether continuously or intermittently);

and includes the bed that the water in the waterway normally flows over or is covered by and the banks that the water in the waterway normally flows between or is contained by, but does not include land normally not part of the waterway that may be covered from time to time by floodwaters from the waterway.

year means any 12 month period.

1.1A Meaning of *regulated waste*

(1) In this schedule:

regulated waste means waste that is, or contains, 1 or more of the following kinds of waste:

(a) hazardous waste;

(b) group A waste;

(c) group B waste;

(d) group C waste;

(e) industrial waste.

(2) An expression used in subsection (1) and defined in the environmental standards has the same meaning as in the standards.

1.2 Class A activities

For section 42, the following activities are class A activities:

Table 1.2

column 1 item	column 2 activity
1	the extraction of more than $100m^3$ of material (other than water) from a waterway
2	the operation of equipment designed to extract more than 30 000t per year of material (other than ground water) from land outside a waterway
3	the operation of an incineration facility for the destruction of waste by thermal oxidation (including biological, veterinary, medical, dental, quarantine and municipal wastes)
4	the sterilisation of clinical waste
5	the conduct of a crematorium for the reduction by means of thermal oxidation of human bodies to cremated remains
6	the operation of a commercial landfill facility that receives, or is intended by the operator to receive, more than 5 000t of waste per year
7	the acceptance of more than $100m^3$ of soil for placement on land by a lessee or occupier of the land if the land is in— (a) an area identified in the territory plan as land in any of the following zones: Broadacre; Rural; Hills, Ridges and Buffer Areas; River Corridors; Mountains and Bushlands; or (b) an area identified on a precinct map in the territory plan as an area where plantation forestry is permitted subject to development assessment; or

column 1 item	column 2 activity
	(c) an area identified in the national capital plan as any of the following: Broadacre Areas; Rural Areas; Hills, Ridges and Buffer Spaces; River Corridors; Mountains and Bushland
8	transport activities to which the National Environment Protection (Movement of Controlled Waste between States and Territories) Measure dated 26 June 1998, as in force from time to time, made under the *National Environment Protection Council Act 1994*, applies
9	the transportation, from 1 place in the ACT to another place in the ACT, for fee or reward of— (a) 200kg or more of regulated waste, other than waste consisting only of stabilised asbestos waste in bonded matrix; or (b) 2t or more of used, rejected or unwanted tyres (including shredded tyres and tyre pieces)
10	sewage treatment if the activity involves the discharge of treated or untreated sewage or septic tank effluent to land or water and having a peak loading capacity designed for more than 100 people per day, other than an activity involving the recycling of wastewater if there is no discharge to receiving waters
11	the treatment (other than by incineration), storage or handling of more than 1 000m^3 of contaminated soil from land outside the parcel of land where the contaminated soil is treated, stored or handled
12	the treatment (other than by incineration), storage or handling of more than 10 000m^3 of contaminated soil from land

column 1 item	column 2 activity
13	the operation of a facility at which more than 800 animals per day may be milked
14	the operation of a facility designed to process more than 30 000kL of milk or milk products per year
15	the operation of a facility designed to process more than 30 000t of agricultural crops per year, other than— (a) the processing of grapes or grape products, milk or milk products or forestry products; or (b) the processing of agricultural crops by a mobile plant on a farm
16	commercial aquaculture, being the propagation or rearing of fish or other aquatic organisms in the course of which supplementary feeding is used
17	the operation of a stock feedlot— (a) for the rearing or fattening of stock fed entirely or largely on prepared or manufactured feed; and (b) that is designed to accommodate at any one time more than 200t live animal weight of stock in a confinement area; other than a feedlot operated for drought or similar emergency relief or for the holding of stock at an abattoir or saleyard
18	the keeping of poultry, game birds or emus if the premises where the birds are kept is designed to accommodate at any one time more than 180t live animal weight of birds
19	the operation of commercial stock saleyards (including associated transport loading facilities) that sells or exchanges, or is intended by the operator to sell or exchange, more than 10 000t live animal weight of animals per year

column 1 item	column 2 activity
20	the operation of an abattoir or another facility for the processing of the products of slaughtered animals (other than for the tanning of animal skins or fellmongery) designed to process more than 3 000kg of live animals per day
21	the commercial cleaning or carbonising of wool at a facility designed to process more than 200t of wool per year
22	the processing of animal skins or other animal products (including fellmongery) to produce leather or other similar products
23	outdoor concert activities using amplifying equipment if the venue has the capacity to hold more than 2 000 people and is not an authorised concert venue
24	the management of a concert venue that has the capacity to hold more than 2 000 people where outdoor concert activities using amplifying equipment are held
25	the generation of electricity by a generator classified as a scheduled generating unit under the national electricity rules, clause 2.2.2, under the *National Electricity (ACT) Law*
26	motor racing events, other than motor racing events held at an authorised racing venue
27	the management of a motor racing venue where motor racing events are held

column 1 item	column 2 activity
28	lighting, using or maintaining a fire in the open air, or causing or permitting a fire to be lit, used or maintained in the open air, for the purpose of burning plant matter— (a) to reduce a fire hazard; or (b) to clear the land; or (c) to conserve biological diversity or ecological integrity *Note* The *Emergencies Act 2004* contains an offence about lighting etc fire during a total fire ban (see that Act, s 116). That Act may also require the owner of land to obtain oral approval or a permit before lighting etc a fire on the land (see that Act, s 123 and s 124)..
29	the commercial use of chemical products registered under the Agricultural and Veterinary Chemicals Code as in force for the time being under the *Agricultural and Veterinary Chemicals Code Act 1994* (Cwlth) for pest control or turf management
30	the storage of petroleum products in a facility designed to store more than $50m^3$ of products
31	the production of petroleum products (other than the recovery, processing or disposal of petroleum product waste) at a facility designed to produce more than 100t of petroleum products per year
32	the operation of a facility that recovers, processes or disposes, or is intended by the operator to recover, process or dispose, of more than 20t of waste petroleum products per year

column 1 item	column 2 activity
33	the operation of an aerodrome for helicopters (other than a facility used only for the emergency medical evacuation, retrieval or rescue of people by helicopter) if— (a) the aerodrome is operated for more than 2 weeks; and (b) the number of take-offs and landings by helicopters is, or is intended by the operator to be, more than 30 per week; and (c) the aerodrome is located less than 1km from a dwelling not associated with the aerodrome
34	the conduct of a logging operation that logs, or is intended by the operator to log, more than 5 000t of timber per year
35	the commercial production of alcoholic beverages or distilled alcohol at a facility designed to produce more than 100kL of alcoholic beverages or distilled alcohol per year
36	the conduct of an operation that applies to land, or is intended by the operator to apply to land, more than 500t per year of organic products produced by the treatment of sewerage for the improvement of soil
37	the operation of a facility that composts, or is intended by the operator to compost, more than 200t of animal waste, or 5 000t of plant waste, per year
38	timber chipping, pulping or milling at a facility (other than at a joinery or retail timber yard) designed to process or produce more than 30 000m^3 of timber or wood products per year
39	the manufacture of things in furnaces or kilns (including bricks, glass, pipes, pottery goods and tiles) at a facility designed to produce 10 000t or more of things per year

column 1 **item**	**column 2** **activity**
40	the preservation of wood for commercial purposes using chemicals (including copper, chromium, arsenic and creosote) at a facility designed to process 10 000m^3 or more of wood per year
41	the production of concrete or concrete products at a facility designed to produce more than 7 000m^3 of concrete per year
42	the production of road building materials by the mixing of ground rock aggregate and bituminous materials at a production facility that— (a) is, or is intended to be, located at the one site for more than 1 year; and (b) is designed to produce more than 30 000t of road building materials per year
43	the operation of a facility for the crushing, grinding or separating of materials (including sand, gravel, rock, minerals, slag, road base, concrete, bricks, tiles, asphaltic material, metal or timber) into different sizes, if the processing facility is designed to produce more than 10 000t of processed materials per year
44	the sale or supply in the ACT of firewood to the person who uses it, unless— (a) the quantity of firewood sold or supplied is less than 100kg; or (b) the firewood is sold under a scheme in which an annual fee is paid for the right to collect waste softwood in pine plantations
45	the sale or supply in the ACT of firewood to a person other than one mentioned in item 44
46	the cutting, storing or seasoning in preparation for sale or supply, of firewood in the ACT

column 1 item	column 2 activity
47	the operation of a firearm shooting range *Note* A person commits an offence if the person operates a shooting range other than an approved shooting range. Also, a person commits an offence if the person operates an approved shooting range and is not licensed to operate the shooting range (see *Firearms Act 1996*, s 224).
48	the operation of a waste transfer station receiving 30 000t or more of waste each year
49	the operation of a commercial facility for the treatment of the hazardous components of electronic waste

1.3 Class B activities

For section 42, the following activities are class B activities:

Table 1.3

column 1 item	column 2 activity
1	the manufacture of things in furnaces or kilns (including bricks, glass, pipes, pottery goods and tiles) at a facility designed to produce between 100t and 10 000t of things per year
2	the preservation of wood for commercial purposes using chemicals (including copper, chromium, arsenic and creosote) at a facility designed to process less than 10 000m^3 of wood per year
3	forestry activities, being the growing, harvesting and management of forestry products

column 1 item	column 2 activity
4	major land development or construction activities, being— (a) land development, or the construction of a commercial building, on a site of 0.3ha or more and including the construction of associated public infrastructure; or (b) the construction of public infrastructure on a site of 0.3ha or more; but not including the installation of pipes or lines for linear utilities such as gas, water, electricity and telephone
5	management of municipal services maintenance on unleased land, being the maintenance of— (a) urban parkland or other municipal landscapes; or (b) public places, public roads or public footpaths; or (c) the stormwater system
6	wastewater recycling that discharges recycled water onto land or into a waterway if the recycling involves— (a) the treatment for the purpose of reuse of wastewater (including effluent) in a treatment plant that has a capacity of greater than 3ML per year; or (b) the reuse of more than 3ML per year
7	the commercial collection of waste from commercial premises
8	the operation of a commercial facility for the storage and dismantling of electronic waste

Schedule 2 Specific offences

(see s 145)

Part 2.1 Preliminary

2.1 Definitions for sch 2

In this schedule:

AS/NZS 4013 means AS/NZS 4013 (Domestic solid fuel burning appliances—Method for determination of flue gas emission), as in force from time to time.

Note AS/NZS 4013 may be purchased at www.standards.org.au.

fuel-burning equipment means a furnace, boiler, fireplace, oven, retort, incinerator, internal-combustion engine, chimney or any other apparatus, device, mechanism or structure, in the operation of which combustible material is, or is intended to be, used or that is, or is intended to be, used in relation to the burning of combustible material.

residential premises means premises that are used exclusively or primarily for residential purposes.

sell includes exhibit or offer for sale (whether by wholesale or retail) and supply by way of exchange, lease, hire or credit sale.

solid fuel-burning equipment means fuel-burning equipment that is designed to burn hard wood, soft wood or briquettes and to which AS/NZS 4013 applies.

Part 2.2 Offences relating to articles that emit noise

2.2 Sale of articles that emit excessive noise

A person must not sell a prescribed article that, when in operation, emits noise that exceeds the prescribed level.

Maximum penalty: 100 penalty units.

Part 2.3 Offences relating to fuel-burning equipment

2.3 Emission of pollutants in excess of prescribed concentrations

(1) A person must not use, or cause or permit to be used, on any premises, a fuel that contains more than the prescribed proportion of a prescribed constituent unless the activity is authorised by an environmental authorisation.

(2) A person who contravenes subsection (1) commits an indictable offence.

Maximum penalty: 100 penalty units.

2.4 Sale of solid fuel-burning equipment

(1) A person must not sell solid fuel-burning equipment, other than prescribed equipment, for use on residential premises unless—

(a) it complies with AS/NZS 4013; and

(b) a certificate of compliance under subsection (3) has been issued in relation to equipment of the same type by an entity authorised by the authority in writing for this paragraph.

(2) A person who, without reasonable excuse, contravenes subsection (1) commits an indictable offence.

Maximum penalty: 30 penalty units.

(3) For subsection (1) (b), an authorised entity may certify, in relation to solid fuel-burning equipment of a particular type, that—

(a) equipment of that type has been tested (whether by that entity, or by another entity) in accordance with the test procedure specified in AS/NZS 4013; and

(b) the authorised entity is satisfied that the equipment tested had an appliance particulate emission factor not greater than the maximum allowable particulate emission factor specified in AS/NZS 4013, section 7.

(4) An authorisation under subsection (1) (b) is a disallowable instrument.

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

(5) The Legislation Act, chapter 7 (Presentation, amendment and disallowance of subordinate laws and disallowable instruments) applies to an authorisation as if each reference in that chapter to 6 sitting days were a reference to 5 sitting days.

2.5 Interference with solid fuel-burning equipment or attached plates

(1) A person must not alter the information on, or remove, a plate attached to solid fuel-burning equipment that contains information required to be marked on a plate in accordance with AS/NZS 4013, section 10.

(2) A person who sells solid fuel-burning equipment for use on residential premises, or installs solid fuel-burning equipment on residential premises, must not alter in a material way—

(a) the structure, exhaust system or inlet air system of the equipment; or

(b) a part of the equipment that is involved in the combustion process.

(3) Subsection (2) does not apply to the sale or installation of prescribed equipment.

(4) A person who, without reasonable excuse, contravenes subsection (1) or (2) commits an indictable offence.

Maximum penalty: 30 penalty units.

Part 2.5 Summary proceedings for indictable offences

2.14 Certain offences may be dealt with summarily

(1) A proceeding for an offence against this schedule must be heard and decided by the Magistrates Court.

(2) If, in accordance with subsection (1), the Magistrates Court hears and decides a proceeding for an offence, the court may not impose a fine exceeding 20 penalty units.

Schedule 3 Reviewable decisions

(see pt 14)

column 1 item	column 2 section	column 3 decision	column 4 entity
1	21 (1)	refuse to exclude document or part of document from public inspection	applicant
2	21A (4)	refuse to remove entry from the register	entity that entry relates to
3	43 (1)	notify entity not to conduct, or continue to conduct, stated activity unless person holds environmental authorisation	entity conducting or proposing to conduct stated activity
4	43 (4)	refuse to revoke notice under section 43 (1)	person conducting or proposing to conduct stated activity
5	49 (1) (a), (2) (a), (3) (a) or (4) (a)	grant environmental authorisation (other than authorisation in relation to activity of kind mentioned in schedule 1, table 1.2, item 30)	applicant for authorisation

column 1 item	**column 2 section**	**column 3 decision**	**column 4 entity**
6	49 (1) (a), (2) (a), (3) (a) or (4) (a)	grant environmental authorisation (other than authorisation in relation to activity of kind mentioned in schedule 1, table 1.2, item 30) for stated period	applicant for authorisation
7	49 (1) (a), (2) (a), (3) (a) or (4) (a)	grant environmental authorisation (other than authorisation in relation to activity of kind mentioned in schedule 1, table 1.2, item 30) subject to stated condition	applicant for authorisation
8	49 (1) (b), (2) (b), (3) (b) or (4) (b)	refuse to grant environmental authorisation	applicant for authorisation
9	57 (2)	decide not to take any action under this Act	holder of authorisation
10	58	cancel accredited environmental authorisation	holder of authorisation
11	60 (1)	vary environmental authorisation	holder of authorisation

column 1 item	**column 2 section**	**column 3 decision**	**column 4 entity**
12	60 (1)	refuse to vary environmental authorisation on application	holder of authorisation
13	63 (1)	suspend environmental authorisation	entity that has authorisation suspended
14	63 (1)	cancel environmental authorisation	entity that has authorisation cancelled
15	63 (2)	suspend environmental authorisation until stated condition fulfilled	entity that has authorisation suspended
16	63 (2)	refuse to lift suspension of environmental authorisation on ground that stated condition not fulfilled	entity that has authorisation suspended
17	69 (1)	require entity to prepare and submit for approval draft environmental improvement plan	entity conducting or proposing to conduct activity

column 1 item	column 2 section	column 3 decision	column 4 entity
18	71 (1) (d)	reject draft environmental improvement plan and require plan to be amended and resubmitted	entity that submitted plan
19	71 (2) (b)	reject draft environmental improvement plan	entity that submitted plan
20	72 (3)	refuse to accredit environmental improvement plan	applicant for accreditation
21	75 (1)	refuse to approve person to conduct particular environmental audit	person refused approval or entity that commissions environmental audit
22	75 (4)	remove name of auditor from list maintained by authority	auditor whose name is removed from list
23	76 (1)	require entity to commission environmental audit and submit report on audit	entity conducting or proposing to conduct stated activity
24	76 (2)	require entity to commission environmental audit of contaminated land	entity conducting or proposing to conduct stated activity

column 1 item	column 2 section	column 3 decision	column 4 entity
25	78 (3)	refuse to grant protection in relation to environmental audit report	applicant for protection
26	78 (3)	grant protection in relation to environmental audit report subject to stated conditions	applicant for protection
27	82 (1)	require entity to prepare and submit for approval draft emergency plan	entity conducting or proposing to conduct stated activity
28	84 (1) (d)	reject draft emergency plan and require plan to be amended and resubmitted	entity required to submit plan
29	84 (2) (b)	reject draft emergency plan	entity required to submit plan
30	91C (1)	make order to conduct assessment	appropriate person
31	91D (1)	make order to remediate	appropriate person
32	91D (8)	refuse to consent to transfer or sublet	applicant for consent
33	91G (1)	refuse to extend period for compliance	applicant for extension

column 1 item	column 2 section	column 3 decision	column 4 entity
34	91G (1)	extend for period less than that applied for	applicant for extension
35	91K	require stated person to pay reasonable costs and expenses	appropriate person against whom order made
36	110 (4)	decide to dispose of seized thing	owner or entity that had possession/custody/control of thing immediately before it was seized or entity that has legal/equitable interest in thing
37	125 (1)	serve environment protection order	entity served with order
38	125 (1)	serve environment protection order that impose stated requirements mentioned in s 125 (5)	entity served with order
39	125 (2) or (3)	serve environment protection order	entity served with order

Dictionary

(see s 3)

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

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

- ACAT
- AS (see s 164 (1))
- Commonwealth
- daily newspaper
- director-general (see s 163)
- disallowable instrument (see s 9)
- exercise
- found guilty
- function
- indictable offence (see s 190)
- Minister (see s 162)
- national capital plan
- National Electricity (ACT) Law
- notifiable instrument (see s 10)
- penalty unit (see s 133)
- public employee
- public holiday
- public servant
- reviewable decision notice
- State
- territory plan.

activity means a current or proposed activity including a process, operation, project, venture or business.

airgun, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

analyst means an analyst under section 15.

appropriate person means the appropriate person under section 91I.

approved use, for division 9.5 (Assessment and remediation)—see section 91A.

aquifer, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

area of high conservation value means—

(a) an area identified in the territory plan as—

(i) a wilderness area; or

(ii) a national park; or

(iii) a nature reserve; or

(iv) a cemetery or burial ground; or

(b) a place, other than a structure or group of structures, registered under the *Heritage Act 2004*; or

(c) the area identified in the territory plan as the river corridor zone for the Murrumbidgee River; or

(d) any other prescribed area.

AS/NZS 4013, for schedule 2 (Specific offences)—see schedule 2, section 2.1.

assessment means an assessment made under the Land Act, division 4.3.

assessment order, for part 9 (Environmental protection)—see section 91J.

auditor, for division 9.2 (Environmental audits)—see section 73.

authorisation fee, for an environment authorisation, means the fee payable in relation to the authorisation.

authorised activity means an activity in relation to which there is an environmental authorisation.

authorised concert venue, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

authorised motor racing venue, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

authorised officer means an authorised officer under section 14 (3).

authority means the Environment Protection Authority under section 11.

blank fire firearm, for schedule 1 (Activities requiring environmental authorisation)—see the *Firearms Act 1996*, dictionary.

bore, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

clinical waste, for schedule 1 (Activities requiring environmental authorisation)—see the *Clinical Waste Act 1990*, dictionary.

concert, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

concert venue, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

conduct includes acts and omissions.

connected, for part 11 (Powers of authorised officers)—see section 95.

consultation period, for part 4 (Environment protection policies)—see section 25 (1).

contaminated, in relation to land—see section 4.

development means the following:

(a) building, altering, repairing or demolishing a building or structure on land;

(b) disposing of waste materials generated by altering or demolishing a building or structure on land;

(c) carrying out earthworks or other construction work on or under land;

(d) carrying out work that would affect the landscape of land.

draft environment protection policy, for part 4 (Environment protection policies)—see section 23B.

EIS, for part 10—see the definition of ***environmental impact statement***.

electronic equipment means equipment that requires an electric current or electromagnetic field to function.

Examples—electronic equipment

televisions, fridges, computers, mobile phones, drills, remote control cars

Note An example is part of the Act, 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).

electronic waste means waste electronic equipment.

emergency plan means an emergency plan described in section 81.

enforceable undertaking, for part 14A (Enforceable undertakings)—see section 136E.

enter, for part 11 (Powers of authorised officers)—see section 95.

environment means each of the following:

(a) the components of the earth, including soil, the atmosphere and water;

(b) any organic or inorganic matter and any living organism;

(c) human made or modified structures and areas;

(d) ecosystems and their constituent parts, including people and communities;

(e) the qualities and characteristics of places and areas that contribute to their biological diversity and ecological integrity, scientific value, and amenity;

(f) the interactions and interdependencies within and between the things mentioned in paragraphs (a) to (e);

(g) the social, aesthetic, cultural and economic conditions that affect, or are affected by, the things mentioned in paragraphs (a) to (e).

environmental audit, for division 9.5 (Assessment and remediation)—see section 91A.

environmental authorisation—

(a) for this Act generally—means an environmental authorisation under part 8 (Environmental authorisations); and

(b) for part 8—see section 41A.

environmental emergency, for division 9.3 (Emergency plans)—see section 80.

environmental harm means any impact on the environment as a result of human activity that has the effect of degrading the environment (whether temporarily or permanently).

environmental impact statement, for part 10—see the *Planning and Development Act 2007*, section 206 (Definitions—ch 8).

environmental nuisance means an unreasonable interference with the enjoyment by the public, a section of the public or a person of a place or area, if the interference caused or likely to be caused by—

(a) dust, fumes, light, noise, odour or smoke; or

(b) an unhealthy, unsightly or otherwise offensive condition because of pollution.

environmental protection agreement means an environmental protection agreement under section 38.

environmental record means the environmental record of a person both in the ACT and elsewhere, and includes any action taken by the person for this Act.

environmental standards, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

environmental undertaking, for part 14A (Enforceable undertakings)—see section 136F (2).

environment protection order means an environment protection order under section 125.

environment protection policy—

(a) for this Act generally—means an environment protection policy under part 4 (Environment protection policies); and

(b) for part 4—see section 23B.

Note A reference to an instrument (including a policy) includes a reference to the instrument as originally made and as amended (see Legislation Act, s 102).

financial assurance means a financial assurance under section 85.

firearm, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

fuel-burning equipment, for schedule 2 (Specific offences)—see schedule 2, section 2.1.

general environmental duty means the duty of care described in section 22 (1).

ground water, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

information discovery order means an information discovery order under section 133.

inquiry, for part 10 (Functions of the Minister)—see the *Planning and Development Act 2007*, section 206 (Definitions—ch 8).

internally reviewable decision, for part 14 (Notification and review of decisions)—see section 135.

land includes water on or below the surface of land and the bed of such water.

live animal weight, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

logging, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

material environmental harm means environmental harm—

(a) that is significant, including environmental harm that becomes significant—

  (i) over time; or

  (ii) due to its frequent recurrence; or

  (iii) due to its cumulative effect with other relevant events; or

(b) that is to an area of high conservation value, other than harm that is trivial or negligible; or

(c) that results in loss or damage to property to the value of more than $5 000; or

(d) that results in necessary remedial action costing more than $5 000.

mobile plant, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

motor racing event, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

motor vehicle—see the *Road Transport (General) Act 1999*, dictionary.

national environment protection measure, for division 9.5 (Assessment and remediation)—see section 91A.

offence, for part 11 (Powers of authorised officers)—see section 95.

paintball marker, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

pollutant means—

(a) a gas, liquid or solid; or

(b) dust, fumes, odour or smoke; or

(c) an organism (whether alive or dead), including a virus and a prion; or

(d) energy, including heat, noise or radioactivity, or light or other electromagnetic radiation; or

(e) anything prescribed; or

(f) a combination of 1 or more of the things described in paragraphs (a) to (e);

that, when discharged, emitted, deposited or disturbed, may cause environmental harm.

pollute includes to cause or fail to prevent the discharge, emission, depositing, disturbance or escape of a pollutant.

premises, for part 11 (Powers of authorised officers)—see section 95.

preparation requirements, for division 9.3 (Emergency plans)—see section 80.

prescribed activity means—

(a) a class A activity listed in schedule 1, section 1.2; or

(b) a class B activity listed in schedule 1, section 1.3; or

(c) an activity in relation to which a person has been given a notice under section 43 (1).

receiving waters, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

register means the register kept under section 21A.

regulated waste, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1A.

remediation, in relation to contaminated land, includes—

(a) preparing a long-term management plan (if any) for the land; and

(b) removing, dispersing, destroying, reducing, mitigating or containing the contamination of the land; and

(c) eliminating or reducing any hazard arising from the contamination of the land (including by preventing the entry of people or animals on the land).

remediation order, for part 9 (Environmental protection)—see section 91J.

residential premises—

(a) for part 11 (Powers of authorised officers)—see section 95; and

(b) for schedule 2 (Specific offences)—see schedule 2, section 2.1.

reviewable decision, for part 14 (Notification and review of decisions)—see section 135.

road transport legislation, for schedule 1 (Activities requiring environmental authorisation)—see the *Road Transport (General) Act 1999*, section 6.

sell, for schedule 2 (Specific offences)—see schedule 2, section 2.1.

serious environmental harm means environmental harm—

(a) that is very significant, including environmental harm that becomes very significant—

(i) over time; or

(ii) due to its frequent recurrence; or

(iii) due to its cumulative effect with other relevant events; or

(b) that is to an area of high conservation value and is significant, including environmental harm that becomes significant—

(i) over time; or

(ii) due to its frequent recurrence; or

(iii) due to its cumulative effect with other relevant events; or

(c) that results in loss or damage to property to the value of more than $50 000; or

(d) that results in necessary remedial action costing more than $50 000.

solid fuel-burning equipment, for schedule 2 (Specific offences)—see schedule 2, section 2.1.

stock, for schedule 1 (Activities requiring environmental authorisation)—see the *Stock Act 2005*, dictionary.

stormwater, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

stormwater system, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

substance, for division 9.5 (Assessment and remediation)—see section 91A.

waste, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

waste transfer station means a facility that sorts, consolidates or temporarily stores solid waste (including municipal waste) for transfer to another site for disposal, storage, reprocessing, recycling, use or reuse.

wastewater, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

water, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

waterway, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

working day means a day other than a Saturday, a Sunday, a public holiday or a day that is a holiday for public servants.

year, for schedule 1 (Activities requiring environmental authorisation)—see schedule 1, section 1.1.

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

A = Act
AF = Approved form
am = amended
amdt = amendment
AR = Assembly resolution
ch = chapter
CN = Commencement notice
def = definition
DI = Disallowable instrument
dict = dictionary
disallowed = disallowed by the Legislative Assembly
div = division
exp = expires/expired
Gaz = gazette
hdg = heading
IA = Interpretation Act 1967
ins = inserted/added
LA = Legislation Act 2001
LR = legislation register
LRA = Legislation (Republication) Act 1996
mod = modified/modification
NI = Notifiable instrument
o = order
om = omitted/repealed
ord = ordinance
orig = original
par = paragraph/subparagraph
pres = present
prev = previous
(prev...) = previously
pt = part
r = rule/subrule
reloc = relocated
renum = renumbered
R[X] = Republication No
RI = reissue
s = section/subsection
sch = schedule
sdiv = subdivision
SL = Subordinate law
sub = substituted
underlining = whole or part not commenced or to be expired

3 Legislation history

Environment Protection Act 1997 A1997-92

notified 1 December 1997 (Gaz 1997 No S380)
s 1, s 2 commenced 1 December 1997 (s 2 (1))
remainder commenced 1 June 1998 (s 2 (3))

as amended by

Building (Amendment) Act (No 2) 1998 A1998-52 sch

notified 16 November 1998 (Gaz 1998 No S205)
ss 1-3 commenced 16 November 1998 (s 2 (1))
sch commenced 4 January 1999 (Gaz 1999 No S1)

Environment Protection (Amendment) Act 1999 A1999-54

notified 17 September 1999 (Gaz 1999 No S54)
ss 1-3 commenced 17 September 1999 (s 2 (1))
remainder (ss 4-26) commenced 17 March 2000 (s 2 (3))

Road Transport Legislation Amendment Act 1999 A1999-79 sch 3

notified 23 December 1999 (Gaz 1999 No S65)
s 1, s 2 commenced 23 December 1999 (IA s 10B)
sch 3 commenced 1 March 2000 (s 2 and Gaz 2000 No S5)

Environment Protection Amendment Act 2000 A2000-12

notified 6 April 2000 (Gaz 2000 No 14)
commenced 6 April 2000 (s 2)

Environment Protection (Prescribed Activities) Regulations 2000 SL2000-31

notified 20 July 2000 (Gaz 2000 No 29)
commenced 20 July 2000 (reg 2)

Environment Protection (Legislation) Regulations 2000 SL2000-36 pt 2

notified 21 September 2000 (Gaz 2000 No 38)
commenced 21 September 2000 (reg 2)

Environment Protection Legislation Amendment Act 2000 A2000-55 pt 2

notified 5 October 2000 (Gaz 2000 No 40)
s 1, s 2 commenced 5 October 2000 (IA s 10B)
pt 2 (s 3, s 4) commenced 5 April 2001 (IA s 10E)

Environment Protection Regulations Amendment 2001 SL2001-9 pt 2

notified 5 April 2001 (Gaz 2001 No 14)
reg 1 commenced 5 April 2001 (IA s 10B)
pt 2 (regs 2-5) commenced 5 April 2001 (reg 1)

Legislation (Consequential Amendments) Act 2001 A2001-44 pt 130

notified 26 July 2001 (Gaz 2001 No 30)
s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 130 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

Environment Protection Amendment Act 2001 A2001-91

notified LR 24 September 2001
s 1, s 2 commenced 24 September 2001 (LA s 75)
remainder (ss 3-24) commenced 24 September 2001 (s 2)

Legislation Amendment Act 2002 A2002-11 pt 2.19

notified LR 27 May 2002
s 1, s 2 commenced 27 May 2002 (LA s 75)
pt 2.19 commenced 28 May 2002 (s 2 (1))

Planning and Land (Consequential Amendments) Act 2002 A2002-56 sch 3 pt 3.5

notified LR 20 December 2002
s 1, s 2 commenced 20 December 2002 (LA s 75 (1))
sch 3 pt 3.5 commenced 1 July 2003 (s 2 and see Planning and Land Act 2002 A2002-55, s 2)

Statute Law Amendment Act 2003 A2003-41 sch 3 pt 3.9

notified LR 11 September 2003
s 1, s 2 commenced 11 September 2003 (LA s 75 (1))
sch 3 pt 3.9 commenced 9 October 2003 (s 2 (1))

Annual Reports Legislation Amendment Act 2004 A2004-9 sch 1 pt 1.13

notified LR 19 March 2004
s 1, s 2 commenced 19 March 2004 (LA s 75 (1))
sch 1 pt 1.13 commenced 13 April 2004 (s 2 and see Annual Reports (Government Agencies) Act 2004 A2004-8, s 2 and CN2004-5)

Construction Occupations Legislation Amendment Act 2004 A2004-13 sch 2 pt 2.10

notified LR 26 March 2004
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))
sch 2 pt 2.10 commenced 1 September 2004 (s 2 and see Construction Occupations (Licensing) Act 2004 A2004-12, s 2 and CN2004-8)

Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Act 2004 A2004-15 sch 1 pt 1.13, sch 2 pt 2.33

notified LR 26 March 2004
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))
sch 1 pt 1.13, sch 2 pt 2.33 commenced 9 April 2004 (s 2 (1))

Environment Legislation Amendment Act 2004 A2004-23 pt 3

notified LR 19 May 2004
s 1, s 2 commenced 19 May 2004 (LA s 75 (1))
pt 3 commenced 19 July 2004 (s 2 and CN2004-13)

Emergencies Act 2004 A2004-28 pt 3.9

notified LR 29 June 2004
s 1, s 2 commenced 29 June 2004 (LA s 75 (1))
pt 3.9 commenced 1 July 2004 (s 2 (1) and CN2004-11)

Heritage Act 2004 A2004-57 sch 1 pt 1.4

notified LR 9 September 2004
s 1, s 2 commenced 9 September 2004 (LA s 75 (1))
sch 1 pt 1.4 commenced 9 March 2005 (s 2 and LA s 79)

Stock Act 2005 A2005-19 sch 1 pt 1.2

notified LR 13 April 2005
s 1, s 2 commenced 13 April 2005 (LA s 75 (1))
sch 1 pt 1.2 commenced 26 August 2005 (s 2 and CN2005-13)

Statute Law Amendment Act 2005 A2005-20 sch 3 pt 3.19

notified LR 12 May 2005

s 1, s 2 taken to have commenced 8 March 2005 (LA s 75 (2))

sch 3 pt 3.19 commenced 12 November 2005 (s 2 (2) and LA s 79)

Statute Law Amendment Act 2005 (No 2) A2005-62 sch 3 pt 3.9

notified LR 21 December 2005

s 1, s 2 commenced 21 December 2005 (LA s 75 (1))

sch 3 pt 3.9 commenced 11 January 2006 (s 2 (1))

Statute Law Amendment Act 2007 A2007-3 sch 3 pt 3.37

notified LR 22 March 2007

s 1, s 2 taken to have commenced 1 July 2006 (LA s 75 (2))

sch 3 pt 3.37 commenced 12 April 2007 (s 2 (1))

Statute Law Amendment Act 2007 (No 2) A2007-16 sch 3 pt 3.12

notified LR 20 June 2007

s 1, s 2 taken to have commenced 12 April 2007 (LA s 75 (2))

sch 3 pt 3.12 commenced 11 July 2007 (s 2 (1))

Environment Protection (Fuel Sales Data) Amendment Act 2007 A2007-17 pt 2

notified LR 14 June 2007

s 1, s 2 commenced 14 June 2007 (LA s 75 (1))

pt 2 commenced 1 July 2007 (s 2)

Planning and Development (Consequential Amendments) Act 2007 A2007-25 sch 1 pt 1.12

notified LR 13 September 2007

s 1, s 2 commenced 13 September 2007 (LA s 75 (1))

sch 1 pt 1.12 commenced 31 March 2008 (s 2 and see Planning and Development Act 2007 A2007-24, s 2 and CN2008-1)

Environment Protection Amendment Regulation 2007 (No 2) SL2007-35

notified LR 25 October 2007

s 1, s 2 commenced 25 October 2007 (LA s 75 (1))

remainder commenced 26 October 2007 (s 2)

Statute Law Amendment Act 2007 (No 3) A2007-39 sch 1 pt 1.1, sch 3 pt 3.13
notified LR 6 December 2007
s 1, s 2 commenced 6 December 2007 (LA s 75 (1))
sch 1 pt 1.1, sch 3 pt 3.13 commenced 27 December 2007 (s 2)

Environment Protection Amendment Regulation 2007 (No 3) SL2007-39
notified LR 17 December 2007
s 1, s 2 commenced 17 December 2007 (LA s 75 (1))
remainder commenced 18 December 2007 (s 2)

Medicines, Poisons and Therapeutic Goods Act 2008 A2008-26 sch 2 pt 2.10
notified LR 14 August 2008
s 1, s 2 commenced 14 August 2008 (LA s 75 (1))
sch 2 pt 2.10 commenced 14 February 2009 (s 2 and LA s 79)

Environment Protection Amendment Regulation 2008 (No 1) SL2008-34
notified LR 14 August 2008
s 1, s 2 commenced 14 August 2008 (LA s 75 (1))
remainder commenced 15 August 2008 (s 2)

ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 (No 2) A2008-37 sch 1 pt 1.39
notified LR 4 September 2008
s 1, s 2 commenced 4 September 2008 (LA s 75 (1))
sch 1 pt 1.39 commenced 2 February 2009 (s 2 (1) and see ACT Civil and Administrative Tribunal Act 2008 A2008-35, s 2 (1) and CN2009-2)

Statute Law Amendment Act 2009 A2009-20 sch 1 pt 1.1, sch 3 pt 3.28
notified LR 1 September 2009
s 1, s 2 commenced 1 September 2009 (LA s 75 (1))
sch 1 pt 1.1, sch 3 pt 3.28 commenced 22 September 2009 (s 2)

Statute Law Amendment Act 2009 (No 2) A2009-49 sch 3 pt 3.27
notified LR 26 November 2009
s 1, s 2 commenced 26 November 2009 (LA s 75 (1))
sch 3 pt 3.27 commenced 17 December 2009 (s 2)

Environment Protection Amendment Regulation 2009 (No 3) SL2009-55
notified LR 11 December 2009
s 1, s 2 commenced 11 December 2009 (LA s 75 (1))
remainder commenced 12 December 2009 (s 2)

Statute Law Amendment Act 2010 A2010-18 sch 3 pt 3.5
notified LR 13 May 2010
s 1, s 2 commenced 13 May 2010 (LA s 75 (1))
sch 3 pt 3.5 commenced 3 June 2010 (s 2)

Environment Protection Amendment Regulation 2010 (No 1) SL2010-31
notified LR 2 August 2010
s 1, s 2 commenced 2 August 2010 (LA s 75 (1))
remainder commenced 3 August 2010 (s 2)

Statute Law Amendment Act 2011 A2011-3 sch 3 pt 3.18
notified LR 22 February 2011
s 1, s 2 commenced 22 February 2011 (LA s 75 (1))
sch 3 pt 3.18 commenced 1 March 2011 (s 2)

Environment Protection Amendment Act 2011 A2011-8
notified LR 16 March 2011
s 1, s 2 commenced 16 March 2011 (LA s 75 (1))
remainder commenced 17 March 2011 (s 2)

Administrative (One ACT Public Service Miscellaneous Amendments) Act 2011 A2011-22 sch 1 pt 1.62
notified LR 30 June 2011
s 1, s 2 commenced 30 June 2011 (LA s 75 (1))
sch 1 pt 1.62 commenced 1 July 2011 (s 2 (1))

Statute Law Amendment Act 2011 (No 2) A2011-28 sch 3 pt 3.13
notified LR 31 August 2011
s 1, s 2 commenced 31 August 2011 (LA s 75 (1))
sch 3 pt 3.13 commenced 21 September 2011 (s 2 (1))

Statute Law Amendment Act 2011 (No 3) A2011-52 sch 3 pt 3.24
notified LR 28 November 2011
s 1, s 2 commenced 28 November 2011 (LA s 75 (1))
sch 3 pt 3.24 commenced 12 December 2011 (s 2)

Statute Law Amendment Act 2012 A2012-21 sch 3 pt 3.17

notified LR 22 May 2012

s 1, s 2 commenced 22 May 2012 (LA s 75 (1))

sch 3 pt 3.17 commenced 5 June 2012 (s 2 (2))

Commissioner for the Environment Amendment Act 2012 A2012-25 sch 1 pt 1.1

notified LR 28 May 2012

s 1, s 2 commenced 28 May 2012 (LA s 75 (1))

sch 1 pt 1.1 commenced 29 May 2012 (s 2)

Justice and Community Safety Legislation Amendment Act 2012 (No 2) A2012-30 sch 1 pt 1.3

notified LR 13 June 2012

s 1, s 2 commenced 13 June 2012 (LA s 75 (1))

sch 1 pt 1.3 commenced 14 June 2012 (s 2)

Directors Liability Legislation Amendment Act 2013 A2013-4 sch 1 pt 1.2

notified LR 21 February 2013

s 1, s 2 commenced 21 February 2013 (LA s 75 (1))

sch 1 pt 1.2 commenced 22 February 2013 (s 2)

Statute Law Amendment Act 2013 A2013-19 sch 3 pt 3.16

notified LR 24 May 2013

s 1, s 2 commenced 24 May 2013 (LA s 75 (1))

sch 3 pt 3.16 commenced 14 June 2013 (s 2)

Planning, Building and Environment Legislation Amendment Act 2013 (No 2) A2013-40 pt 2

notified LR 6 November 2013

s 1, s 2 commenced 6 November 2013 (LA s 75 (1))

pt 2 commenced 27 January 2014 (s 2 and CN2014-1)

Environment Protection Amendment Act 2014 A2014-52 pt 2

notified LR 11 November 2014

s 1, s 2 commenced 11 November 2014 (LA s 75 (1))

s 7, ss 9-12, s 33 commenced 11 May 2015 (s 2 (2) and LA s 79)

pt 2 remainder commenced 12 November 2014 (s 2 (1))

Planning, Building and Environment Legislation Amendment Act 2015 A2015-12 pt 6

notified LR 20 May 2015

s 1, s 2 commenced 20 May 2015 (LA s 75 (1))

pt 6 commenced 21 May 2015 (s 2)

Statute Law Amendment Act 2015 A2015-15 sch 3 pt 3.7

notified LR 27 May 2015

s 1, s 2 commenced 27 May 2015 (LA s 75 (1))

sch 3 pt 3.7 commences 10 June 2015 (s 2)

Annual Reports (Government Agencies) Amendment Act 2015 A2015-16 sch 1 pt 1.10

notified LR 27 May 2015

s 1, s 2 commenced 27 May 2015 (LA s 75 (1))

sch 1 pt 1.10 commenced 3 June 2015 (s 2)

4 Amendment history

Objects
s 2 **orig s 2**
om A2001-44 amdt 1.1472
pres s 2
(prev s 3) am A1999-54 s 4; A2001-91 s 4; pars renum R12 LA; A2007-3 amdt 3.183
renum as s 2 A2007-3 amdt 3.184
am A2011-28 amdt 3.83; A2012-25 amdt 1.1
om A2014-52 s 4

Dictionary
s 3 **orig s 3**
renum as s 2
pres s 3
ins A2007-3 amdt 3.190
am A2011-28 amdt 3.84

Notes
s 3A ins A2007-3 amdt 3.190

Offences against Act—application of Criminal Code etc
s 3B ins A2013-19 amdt 3.113
am A2014-52 s 5

Objects of Act
s 3C ins A2014-52 s 6

Principles applying to Act
s 3D ins A2014-52 s 6

Meaning of *contaminated* land
s 4 am A1999-54 s 5 (b); A2001-44 amdt 1.1473
defs reloc to dict A2007-3 amdt 3.189
sub A2007-3 amdt 3.190
def ***contaminated*** or ***contamination*** ins A1999-54 s 5 (a)
om A2007-3 amdt 3.186
def ***determined fee*** om A2001-44 amdt 1.1475
def ***environmental authorisation*** om A2007-3 amdt 3.187
def ***heritage places register*** om A2004-57 amdt 1.6
def ***heritage register*** ins A2004-57 amdt 1.6
om A2007-3 amdt 3.188
def ***Territory plan*** om A2001-44 amdt 1.1477
def ***this Act*** om A2001-44 amdt 1.1478

Things taken to have impact causing environmental harm
s 5 am A2007-3 amdt 3.191

Relationship with Emergencies Act

s 6 sub A2004-28 amdt 3.25
am A2012-21 amdt 3.69, amdt 3.70

Limitation of application in relation to certain people and things

s 8 am A1999-54 s 6; A1999-79 sch 3

Criminal liability of the Territory

s 10 sub A2002-11 amdt 2.39
am A2005-20 amdt 3.147
sub A2014-52 s 7

Environment Protection Authority

div 2.1 hdg (prev pt 2 div 1 hdg) renum R2 LA

Environment Protection Authority

s 11 am A2001-91 s 6, s 7
sub A2007-3 amdt 3.192
(2)-(4) exp 12 April 2008 (s 11 (4) (LA s 88 declaration applies))
am A2011-22 amdt 1.196

Authority's functions

s 12 sub A2007-16 amdt 3.47

Delegation by authority

s 13 sub A2007-16 amdt 3.48; A2013-40 s 4

Authorised officers

s 14 sub A2007-3 amdt 3.193
(4)-(6) exp 12 April 2008 (s 14 (6) (LA s 88 declaration applies))
am A2011-22 amdt 1.196

Analysts

s 15 sub A2007-3 amdt 3.194
am A2008-26 amdt 2.69

Identity cards

s 16 am A2011-22 amdt 1.196

Disclosure of interests

s 17 am A2007-16 amdt 3.49; A2011-22 amdt 1.196

Legal immunity

s 18 am A2007-16 amdt 3.50

Public inspection of documents

div 2.2 (prev pt 2 div 2 hdg) renum R2 LA

Inspection of documents

s 19 am A1999-54 s 7; pars renum R6 LA; A2014-52 s 8

Exclusion of material
s 21 am A1999-54 s 8; pars renum R6 LA; A2008-37 amdt 1.163

Register of contaminated sites
div 2.3 hdg (prev pt 2 div 3 hdg) ins A1999-54 s 9
renum R2 LA

Register of contaminated sites
s 21A ins A1999-54 s 9
am A2002-56 amdt 3.31; A2014-52 ss 9-12; ss renum R44 LA

Notification of making of certain entries in register
s 21B ins A1999-54 s 9
am A2001-44 amdts 1.1479-1.1481; A2011-28 amdt 3.112

Duty to notify existence of contaminated land
s 23A ins A1999-54 s 10

Definitions for pt 4
s 23B ins A2001-44 amdt 1.1482

Contents
s 24 am A2001-91 s 8

Consultation on draft environment protection policy
s 25 sub A2001-44 amdt 1.1483
am A2011-28 amdt 3.112

Consideration of suggestions etc and revision of draft environment protection policy
s 26 sub A2001-44 amdt 1.1483

Making of environment protection policy
s 27 sub A2001-44 amdt 1.1483

Notification of environment protection policies etc
s 28 sub A2001-44 amdt 1.1483

Accrediting codes of practice
s 31 am A2001-44 amdts 1.1484-1.1486; A2011-28 amdt 3.111

Notification of accredited codes of practice
s 32 am A2001-44 amdt 1.1487

Regulation may make provision for schemes
s 37 am A2001-44 amdt 1.1488, amdt 1.1489

Entering agreements
s 38 sub A2014-52 s 13

Form and terms of agreements
s 39 am A2013-19 amdt 3.114; A2014-52 s 14

Notification of environmental protection agreements
s 41 sub A2001-44 amdt 1.1490
am A2001-91 s 9; A2011-28 amdt 3.111, amdt 3.112

Interpretation for pt 8
pt 8 div 1A hdg ins A1999-54 s 11

Meaning of *environmental authorisation*
s 41A ins A1999-54 s 11

Compliance with authorisation
s 45 am A2014-52 s 15, s 16

Kinds of authorisation
s 46 am A2011-28 amdt 3.85

Application
s 47 am A2001-44 amdts 1.1491-1.1493

Consultation on application for environmental authorisation
s 48 sub A2001-44 amdt 1.1494
am A2011-28 amdt 3.111, amdt 3.112

Grant
s 49 am A2003-41 amdt 3.215; A2007-25 amdt 1.43, amdt 1.44; A2014-52 s 17; ss renum R43 LA

Notification of grant
s 50 am A2001-44 amdt 1.1495; A2001-91 s 10; A2011-28 amdt 3.111, amdt 3.112; A2014-52 s 18, s 19

Kinds of conditions
s 51 am A2001-44 amdt 1.1496; A2001-91 s 11; A2013-19 amdt 3.115; A2014-52 s 20

Period of authorisation
s 52 am A2001-44 amdt 1.1497, amdt 1.1498

Authorisation fees
s 53 sub A2001-44 amdt 1.1499

Determination of fee instalments
s 54 om A2001-44 amdt 1.1500

Nonpayment of fees
s 55 am A2001-44 amdt 1.1501

Refund and remission of fees
s 56 om A2001-44 amdt 1.1502

Review of certain authorisations
s 57 sub A2011-8 s 4

Notification of review of environmental authorisations
s 59 sub A2001-44 amdt 1.1503
am A2011-28 amdt 3.112

Notice of intention to vary an authorisation
s 62 am A2014-52 s 21

Suspension and cancellation
s 63 am A2014-52 s 22

Recognised environmental authorisations
s 67A ins A1999-54 s 12
am A2001-44 amdt 1.1504, amdt 1.1505; A2009-49 amdt 3.64
reloc after s 67 A2009-49 amdt 3.65
am A2011-28 amdt 3.111

Environmental improvement plans
div 9.1 hdg (prev pt 9 div 1 hdg) renum R2 LA

Contents of environmental improvement plan
s 68 am A2001-91 s 12

Authority may require environmental improvement plan
s 69 am A2001-44 amdt 1.1506

Submission of environmental improvement plan
s 70 om A2001-44 amdt 1.1507

Environmental audits
div 9.2 hdg (prev pt 9 div 2 hdg) renum R2 LA

Certain auditors to be approved
s 75 am A1999-54 s 13

Authority may require environmental audit
s 76 am A1999-54 s 14; A2001-44 amdts 1.1508-1.1510

Requests for auditor's statements
s 76A ins A1999-54 s 15
am A2011-28 amdt 3.86; A2014-52 ss 23-25; pars renum R43 LA

Annual returns—auditors
s 76B ins A1999-54 s 15
am A2001-44 amdts 1.1511-1.1513; A2001-91 s 13

Protection for reports of voluntary audits
s 78 am A2001-44 amdts 1.1514-1.1516

Emergency plans
div 9.3 hdg (prev pt 9 div 3 hdg) renum R2 LA

Authority may require emergency plan
s 82 am A2001-44 amdt 1.1517

Submission of emergency plan
s 83 om A2001-44 amdt 1.1518

Financial assurances
div 9.4 hdg (prev pt 9 div 4 hdg) renum R2 LA

Claim on or realisation of financial assurance
s 88 am A2014-52 s 26

Notice before claim on or realisation of a financial assurance
s 89 am A2014-52 s 27, s 28

Recovery of extra costs
s 90 am A2001-44 amdt 1.1519, amdt 1.1520; A2014-52 s 29

Money held by Territory as financial assurance
s 91 am A2001-44 amdt 1.1521, amdt 1.1522

Assessment and remediation
pt 9 div 5 hdg ins A1999-54 s 16

Definitions for div 9.5
s 91A hdg sub R2 LA (see also A2001-91 s 15)
s 91A ins A1999-54 s 16
am A2001-91 s 15; A2007-3 amdt 3.195

Assessment of risk of harm
s 91B ins A1999-54 s 16
am A2013-19 amdt 3.116

Order to assess whether land contaminated
s 91C ins A1999-54 s 16
am A2001-44 amdt 1.1523, amdt 1.1524

Order to remediate land
s 91D ins A1999-54 s 16
am A2001-44 amdt 1.1525, amdt 1.1526

Notification of certain people about orders for assessment or remediation
s 91E ins A1999-54 s 16

Certain documents to be available free of charge
s 91F ins A1999-54 s 16

Extension of time
s 91G ins A1999-54 s 16

Further information
s 91H ins A1999-54 s 16

Choice of appropriate person
s 91I ins A1999-54 s 16
am A2011-28 amdt 3.87

Costs of assessment and remediation
pt 9 div 6 hdg ins A1999-54 s 16

Meaning of *assessment order* and *remediation order*
s 91J ins A1999-54 s 16

Recovery of costs associated with assessment or remediation
s 91K ins A1999-54 s 16
am A2001-44 amdt 1.1527, amdt 1.1528

Priority for costs if owner insolvent
s 91L ins A1999-54 s 16
am A2001-44 amdt 1.1529, amdt 1.1530

Recovery of costs—assessment and remediation
s 91M ins A1999-54 s 16

Costs—person responsible for contamination
s 91N ins A1999-54 s 16

Liability for losses
s 91O ins A1999-54 s 16

Director of body corporate that is wound-up
s 91P ins A1999-54 s 16

Director of body corporate that disposed of land
s 91Q ins A1999-54 s 16

Holding company of body corporate that is wound-up
s 91R ins A1999-54 s 16

Fuel sales information
pt 9A hdg ins A2007-17 s 4

Fuel sales—provision of information
s 92 am A2001-44 amdts 1.1531-1.1533
om A2001-91 s 16
ins A2007-17 s 4
am A2011-22 amdt 1.196

Confidential commercial information must not be disclosed
s 92A ins A2007-17 s 4
am A2011-22 amdt 1.196

Definitions—pt 10
s 92B ins A2007-25 amdt 1.45
def ***environmental impact statement*** or ***EIS*** ins A2007-25 amdt 1.45
def ***inquiry*** ins A2007-25 amdt 1.45

Directions of Minister
s 93 am A2001-44 amdt 1.1534; A2011-28 amdt 3.88; ss renum R35 LA

Environmental impact statements and inquiries
s 94 sub A2007-25 amdt 1.46

Application of Planning and Development Act, pt 8.2 and pt 8.3
s 94A ins A2007-25 amdt 1.46
am A2010-18 amdt 3.5

Powers of authorised officers
pt 11 hdg sub A2007-3 amdt 3.196

Definitions—pt 11
s 95 sub A2007-16 amdt 3.51
def ***connected*** sub A2007-16 amdt 3.51
def ***enter*** sub A2007-16 amdt 3.51
def ***offence*** sub A2007-16 amdt 3.51
def ***premises*** sub A2007-16 amdt 3.51
def ***residential premises*** sub A2007-16 amdt 3.51

Inspection of premises—routine inspections
s 99 am A2001-91 s 17

Routine inspections—serious and urgent circumstances
s 101 sub A2001-91 s 18

Procedure if samples taken
s 102 om A2014-52 s 30

Powers of analysts
pt 12 hdg sub A2007-3 amdt 3.197

On-the-spot fines
div 13.1 hdg om A2005-20 amdt 3.148

Definitions for div 13.1
s 114 om A2005-20 amdt 3.148
def ***administrative charge*** om A2005-20 amdt 3.148
def ***minor environmental offence*** om A2005-20 amdt 3.148
def ***on-the-spot fine*** om A2005-20 amdt 3.148

Infringement notices
s 115 am A1999-54 s 17; pars renum R12 LA
om A2005-20 amdt 3.148

First notice
s 116 om A2005-20 amdt 3.148

Final notice
s 117 om A2005-20 amdt 3.148

Discharge of liability
s 118 om A2005-20 amdt 3.148

Application for withdrawal of infringement notices
s 119 om A2005-20 amdt 3.148

Withdrawal of infringement notices
s 120 om A2005-20 amdt 3.148

Prosecution of minor environmental offences
s 121 om A2005-20 amdt 3.148

Non-antecedent value of infringement notice offences
s 122 om A2005-20 amdt 3.148

Service of notices
s 123 om A2005-20 amdt 3.148

Evidence
s 124 om A2005-20 amdt 3.148

Environment protection orders
s 125 am A1999-54 s 18; ss, pars renum R6 LA

Costs—public interest
s 130 am A2013-19 amdt 3.116

Information discovery orders
s 133 am A2014-52 s 31

Notification and review of decisions
pt 14 hdg sub A2008-37 amdt 1.164; A2014-52 s 32

Definitions—pt 14
s 135 am A1999-54 s 19; pars renum R6 LA
sub A2008-37 amdt 1.164; A2014-52 s 32
def ***internally reviewable decision*** ins A2014-52 s 32
def ***reviewable decision*** ins A2014-52 s 32

Reviewable decision notices
s 136 om A2001-91 s 19
ins A2008-37 amdt 1.164
sub A2014-52 s 32

Applications for internal review
s 136A ins A2014-52 s 32

Applications for review
s 136B ins A2008-37 amdt 1.164
sub A2014-52 s 32

Review by authority
s 136C ins A2014-52 s 32

Applications for review
s 136D ins A2014-52 s 32

Enforceable undertakings
pt 14A hdg ins A2014-52 s 33

Definitions—pt 14A
s 136E ins A2014-52 s 33
def ***enforceable undertaking*** ins A2014-52 s 33
def ***environmental undertaking*** ins A2014-52 s 33

Making of environmental undertakings
s 136F ins A2014-52 s 33

Acceptance of environmental undertaking
s 136G ins A2014-52 s 33

Withdrawal from or amendment of enforceable undertaking
s 136H ins A2014-52 s 33

Ending enforceable undertaking
s 136I ins A2014-52 s 33

Undertaking not admission of fault etc
s 136J ins A2014-52 s 33

Contravention of enforceable undertakings
s 136K ins A2014-52 s 33

Effect of enforceable undertaking on other proceedings
s 136L ins A2014-52 s 33

Causing serious environmental harm or likely serious environmental harm
s 137 hdg am A2014-52 s 34
s 137 am A2014-52 s 34

Causing material environmental harm or likely material environmental harm
s 138 hdg am A2014-52 s 35
s 138 am A2014-52 s 35

Causing environmental harm or likely environmental harm
s 139 hdg am A2014-52 s 35
s 139 am A2014-52 s 36

Liability limited to harm caused by excess pollutants
s 144 am A2014-52 s 37

Extensions of liability for offences
div 15.2 hdg sub A2004-15 amdt 1.14

Acts and omissions of representatives
s 146 sub A2004-15 amdt 1.15

Criminal liability of executive officers
s 147 sub A2013-4 amdt 1.2
am A2014-52 s 38

Notice to authority of alteration to equipment and works
s 149 am A1998-52 sch; A2003-41 amdt 3.216; A2004-13 amdt 2.44; A2007-25 amdt 1.47

Self-incrimination
s 150 am A2004-15 amdt 2.68

Failing to comply with requirement of inspector
s 151 hdg sub A2004-15 amdt 2.69
s 151 am A2004-15 amdt 2.70, amdt 2.71

False or misleading statements
s 152 om A2004-15 amdt 2.72

Due diligence
s 153 am A2005-20 amdt 3.149; A2014-52 s 39

Defence of emergency
s 154 am A2005-20 amdt 3.149; A2014-52 s 40

Strict liability offences
s 155 am A1999-54 s 20; A2005-20 amdt 3.149

Additional court orders
s 157 am A2014-52 s 41

Annual reports to deal with environmental matters
s 158A ins A2000-12 s 3
am A2004-9 amdt 1.17, amdt 1.18; A2004-23 s 15; A2007-3 amdt 3.198; A2011-22 amdt 1.196
om A2015-16 amdt 1.14

National pollutant inventory—provision of information
s 159A ins A1999-54 s 21
am A2001-44 amdt 1.1535, amdt 1.1536

Recovery of clean-up costs
s 160 am A1999-54 s 22; A2001-44 amdt 1.1537, amdt 1.1538; A2014-52 s 42

Statutory declarations
s 162 am A2011-52 amdt 3.88; A2013-19 amdt 3.117

Evidentiary matters
s 164 am A2002-56 amdt 3.31; A2004-57 amdt 1.7; A2007-3 amdt 3.199

Expiry of notifiable instruments
s 164A ins A2009-20 amdt 1.1

Determination of fees etc

s 165 am A1999-54 s 23
sub A2001-44 amdt 1.1539
am A2005-20 amdt 3.150; A2011-3 amdt 3.203

Approved forms

s 165A ins A2001-44 amdt 1.1539
am A2011-3 amdt 3.204

Regulation-making power

s 166 am A2001-44 amdt 1.1540; ss renum R2 LA (see A2001-44 amdt 1.1541); A2011-3 amdt 3.205; A2013-19 amdts 3.118-3.121; A2014-52 s 43; ss renum R43 LA

Review of Act

s 167 sub A2001-91 s 20
om A2007-39 amdt 3.48

Activities requiring environmental authorisation

sch 1 ss renum R12 LA

Definitions for sch 1

s 1.1 def ***airgun*** ins SL2008-34 s 4
def ***blank fire firearm*** ins SL2008-34 s 4
sub A2011-28 amdt 3.89
def ***clinical waste*** ins A2001-91 s 21
sub A2007-3 amdt 3.200
def ***environmental standards*** ins SL2000-36 reg 3
def ***firearm*** ins SL2008-34 s 4
def ***firewood*** ins A2000-55 s 4
om SL2001-9 reg 3
def ***hazardous component*** ins A2014-52 s 44
def ***live animal weight*** ins SL2000-31 amdt 1.1
def ***logging*** ins SL2000-31 amdt 1.1
def ***mobile plant*** ins SL2000-31 amdt 1.1
def ***motor racing event*** am A1999-79 sch 3
def ***National Electricity (ACT) Law*** ins A2005-62 amdt 3.117
om A2011-52 amdt 3.89
def ***ozone-depleting substance*** om A2007-39 amdt 1.1
def ***paintball marker*** ins SL2008-34 s 4
def ***primary production*** om A2007-39 amdt 3.49
def ***regulated waste*** ins SL2000-36 reg 3
def ***road transport legislation*** ins A1999-79 sch 3
def ***stock*** sub A2005-19 amdt 1.2
def ***year*** ins SL2000-31 amdt 1.1

Meaning of regulated waste

s 1.1A ins SL2000-36 reg 3
am SL2007-39 s 4

Class A activities

s 1.2 am A1999-54 s 24; SL2000-31 amdts 1.2-1.7; SL2000-36 reg 3; A2000-55 s 4; SL2001-9 reg 4, reg 5; A2001-91 s 22, s 23; items renum R3 LA (see A2001-91 s 24); table renum R14 LA; am A2005-62 amdt 3.118; SL2007-35 s 4; SL2007-39 s 5, s 6; items renum R20 LA; A2007-39 amdt 1.2; items renum R21 LA; A2007-25 amdt 1.48; SL2008-34 s 5; SL2009-55 s 4; A2011-28 amdt 3.90; A2012-30 amdt 1.20; A2014-52 s 45, s 46; A2015-12 s 41

Class B activities

s 1.3 am SL2000-31 amdt 1.8; items renum R3 LA (see A2001-91 s 24); table renum R14 LA; table am SL2010-31 s 4; A2014-52 s 47

Specific offences

sch 2 ss renum R12 LA

Preliminary

sch 2 pt 2.1 hdg (prev pt 1 hdg) renum R2 LA

Definitions for sch 2

s 2.1 def ***AS 4013*** om A2013-19 amdt 3.122
def ***AS/NZS 4013*** ins A2013-19 amdt 3.123
def ***high-octane unleaded petrol*** om A2007-39 amdt 1.3
def ***leaded petrol*** om A2007-39 amdt 1.3
def ***low-octane unleaded petrol*** om A2007-39 amdt 1.3
def ***maximum lead concentration*** am A1999-54 s 25
om A2007-39 amdt 1.3
def ***solid fuel burning equipment*** am A2013-19 amdt 3.124
def ***unleaded petrol*** am A2001-44 amdt 1.1542
om A2007-39 amdt 1.3

Offences relating to articles that emit noise

sch 2 pt 2.2 hdg (prev pt 2 hdg) renum R2 LA

Offences relating to fuel-burning equipment

sch 2 pt 2.3 hdg (prev pt 3 hdg) renum R2 LA

Emission of pollutants in excess of prescribed concentrations

s 2.3 am A2001-44 amdt 1.1543

Sale of solid fuel-burning equipment

s 2.4 am A2001-44 amdt 1.1544, amdt 1.1545;A2013-19 amdt 3.125

Interference with solid fuel-burning equipment or attached plates

s 2.5 am A2013-19 amdt 3.125

Offences relating to petrol

sch 2 pt 2.4 hdg (prev pt 4 hdg) renum R2 LA
om A2007-39 amdt 1.4

Determination of higher sulphur content of unleaded petrol
s 2.6 sub A2001-44 amdt 1.1546
om A2007-39 amdt 1.4

Sale of leaded petrol as unleaded petrol
s 2.7 om A2007-39 amdt 1.4

Prohibition of sale of leaded petrol unless low lead
s 2.8 am A1999-54 s 25; A2001-44 amdt 1.1547; ss renum R2 LA (see A2001-44 amdt 1.1548)
om A2007-39 amdt 1.4

Declaration about application of certain provisions
s 2.8A ins A2001-44 amdt 1.1549
om A2007-39 amdt 1.4

Exemption
s 2.9 am A2001-44 amdt 1.1550, amdt 1.1551
om A2007-39 amdt 1.4

Petrol pumps to be constructed and marked as prescribed
s 2.10 om A2007-39 amdt 1.4

Petrol additives
s 2.11 om A2007-39 amdt 1.4

Type of petrol to be used
s 2.12 am A1999-79 sch 3; A2001-44 amdt 1.1552
om A2007-39 amdt 1.4

Sale of high-octane unleaded petrol
s 2.13 om A2007-39 amdt 1.4

Summary proceedings for indictable offences
sch 2 pt 2.5 hdg (prev pt 5 hdg) renum R2 LA

Reviewable decisions
sch 3 ins A2008-37 amdt 1.165

Dictionary
dict ins A2007-3 amdt 3.201
am A2008-37 amdt 1.166, amdt 1.167; A2009-20 amdt 3.69; A2011-22 amdt 1.197; A2011-28 amdt 3.91; A2011-52 amdt 3.90; A2013-19 amdt 3.126, amdt 3.127; A2013-40 s 5; A2015-12 s 42
def ***activity*** reloc from s 4 A2007-3 amdt 3.189
def ***airgun*** ins A2011-28 amdt 3.92
def ***analyst*** reloc from s 4 A2007-3 amdt 3.189
def ***an offence*** ins A2007-3 amdt 3.201
om A2007-16 amdt 3.52

def ***appropriate person*** ins A1999-54 s 5 (a)
sub A2007-3 amdt 3.185
reloc from s 4 A2007-3 amdt 3.189
def ***approved use*** ins A2007-3 amdt 3.201
def ***aquifier*** ins A2011-28 amdt 3.92
def ***area of high conservation value*** am A2004-57 amdt 1.5
reloc from s 4 A2007-3 amdt 3.189
am A2007-25 amdt 1.49
def ***AS 4013*** ins A2007-3 amdt 3.201
am A2011-28 amdt 3.93
om A2013-19 amdt 3.128
def ***AS/NZS 4013*** ins A2013-19 amdt 3.129
def ***assessment*** reloc from s 4 A2007-3 amdt 3.189
def ***assessment order*** ins A2007-3 amdt 3.201
def ***auditor*** ins A2007-3 amdt 3.201
def ***authorisation fee*** sub A2001-44 amdt 1.1474
reloc from s 4 A2007-3 amdt 3.189
def ***authorised activity*** reloc from s 4 A2007-3 amdt 3.189
def ***authorised concert venue*** ins A2011-28 amdt 3.94
def ***authorised motor racing venue*** ins A2011-28 amdt 3.94
def ***authorised officer*** reloc from s 4 A2007-3 amdt 3.189
def ***authority*** am A2001-91 s 5
reloc from s 4 A2007-3 amdt 3.189
def ***blank fire firearm*** ins A2011-28 amdt 3.94
am A2013-19 amdt 3.130
def ***bore*** ins A2011-28 amdt 3.94
def ***clinical waste*** ins A2011-28 amdt 3.94
am A2013-19 amdt 3.131
def ***concert*** ins A2011-28 amdt 3.94
def ***concert venue*** ins A2011-28 amdt 3.94
def ***conduct*** reloc from s 4 A2007-3 amdt 3.189
def ***connected*** ins A2007-3 amdt 3.201
def ***consultation period*** ins A2007-3 amdt 3.201
am A2013-19 amdt 3.132
def ***contaminated*** ins A2007-3 amdt 3.186
reloc from s 4 A2007-3 amdt 3.189
def ***development*** sub A2003-41 amdt 3.214
reloc from s 4 A2007-3 amdt 3.189
sub A2007-25 amdt 1.50; A2014-52 s 48
def ***draft environment protection policy*** ins A2007-3 amdt 3.201
def ***EIS*** ins A2007-25 amdt 1.51
def ***electronic equipment*** ins A2014-52 s 49
def ***electronic waste*** ins A2014-52 s 49
def ***emergency plan*** reloc from s 4 A2007-3 amdt 3.189
def ***enforceable undertaking*** ins A2014-52 s 49
def ***environmental undertaking*** ins A2014-52 s 49

def ***enter*** ins A2007-3 amdt 3.201
def ***environment*** reloc from s 4 A2007-3 amdt 3.189
def ***environmental audit*** ins A2007-3 amdt 3.201
def ***environmental authorisation*** ins A2007-3 amdt 3.201
def ***environmental emergency*** ins A2007-3 amdt 3.201
def ***environmental harm*** reloc from s 4 A2007-3 amdt 3.189
def ***environmental impact statement*** ins A2007-25 amdt 1.52
def ***environmental nuisance*** reloc from s 4 A2007-3 amdt 3.189
def ***environmental protection agreement*** reloc from s 4 A2007-3 amdt 3.189
def ***environmental record*** reloc from s 4 A2007-3 amdt 3.189
def ***environmental standards*** ins A2011-28 amdt 3.94
def ***environment improvement initiative*** reloc from s 4 A2007-3 amdt 3.189
om A2011-28 amdt 3.95
def ***environment protection order*** reloc from s 4 A2007-3 amdt 3.189
def ***environment protection policy*** sub A2001-44 amdt 1.1476
reloc from s 4 A2007-3 amdt 3.189
om R18 LA
def ***environment protection policy*** ins A2007-3 amdt 3.201
sub A2007-16 amdt 3.53
def ***financial assurance*** reloc from s 4 A2007-3 amdt 3.189
def ***financial controller*** ins A1999-54 s 5 (a)
reloc from s 4 A2007-3 amdt 3.189
om A2011-28 amdt 3.96
def ***firearm*** ins A2011-28 amdt 3.97
def ***fuel-burning equipment*** ins A2007-3 amdt 3.201
am A2011-28 amdt 3.98
def ***general environmental duty*** reloc from s 4 A2007-3 amdt 3.189
def ***ground water*** ins A2011-28 amdt 3.99
def ***high-octane unleaded petrol*** ins A2007-3 amdt 3.201
om A2007-39 amdt 1.5
def ***information discovery order*** reloc from s 4 A2007-3 amdt 3.189
def ***inquiry*** reloc from s 4 A2007-3 amdt 3.189
sub A2007-25 amdt 1.53; A2011-28 amdt 3.100
def ***internally reviewable decision*** ins A2014-52 s 49
def ***land*** ins A1999-54 s 5 (a)
reloc from s 4 A2007-3 amdt 3.189
def ***Land Act*** reloc from s 4 A2007-3 amdt 3.189
om A2007-25 amdt 1.54

def ***leaded petrol*** ins A2007-3 amdt 3.201
om A2007-39 amdt 1.5
def ***live animal weight*** ins A2011-28 amdt 3.101
def ***logging*** ins A2011-28 amdt 3.101
def ***low-octane unleaded petrol*** ins A2007-3 amdt 3.201
om A2007-39 amdt 1.5
def ***material environmental harm*** reloc from s 4 A2007-3 amdt 3.189
def ***maximum lead concentration*** ins A2007-3 amdt 3.201
om A2007-39 amdt 1.5
def ***mobile plant*** ins A2011-28 amdt 3.101
def ***motor racing event*** ins A2011-28 amdt 3.101
def ***motor vehicle*** sub A1999-79 sch 3
reloc from s 4 A2007-3 amdt 3.189
def ***national capital plan*** ins A1999-54 s 5 (a)
reloc from s 4 A2007-3 amdt 3.189
om A2011-28 amdt 3.102
def ***National Electricity (ACT) Law*** ins A2011-28 amdt 3.103
om A2013-19 amdt 3.133
def ***national environment protection measure*** ins A2007-3 amdt 3.201
def ***national scheme laws*** reloc from s 4 A2007-3 amdt 3.189
om A2011-28 amdt 3.104
def ***newspaper*** reloc from s 4 A2007-3 amdt 3.189
om A2009-20 amdt 3.70
def ***notional lessee*** ins A1999-54 s 5 (a)
reloc from s 4 A2007-3 amdt 3.189
om A2011-28 amdt 3.105
def ***offence*** ins A2007-16 amdt 3.54
def ***paintball marker*** ins A2011-28 amdt 3.106
def ***pollutant*** reloc from s 4 A2007-3 amdt 3.189
def ***pollute*** reloc from s 4 A2007-3 amdt 3.189
def ***premises*** ins A2007-3 amdt 3.201
def ***preparation requirments*** ins A2007-3 amdt 3.201
def ***prescribed activity*** reloc from s 4 A2007-3 amdt 3.189
def ***receiving waters*** ins A2011-28 amdt 3.106
def ***register*** ins A1999-54 s 5 (a)
reloc from s 4 A2007-3 amdt 3.189
def ***regulated waste*** ins A2011-28 amdt 3.106
am A2013-19 amdt 3.134
def ***remediation*** ins A1999-54 s 5 (a)
reloc from s 4 A2007-3 amdt 3.189
def ***remediation order*** ins A2007-3 amdt 3.201
def ***residential premises*** ins A2007-3 amdt 3.201
am R35 LA
def ***reviewable decision*** ins A2008-37 amdt 1.168

def ***road transport legislation*** ins A2011-28 amdt 3.106
am A2013-19 amdt 3.135
def ***sell*** ins A2007-3 amdt 3.201
am A2011-28 amdt 3.107
def ***serious environmental harm*** reloc from s 4 A2007-3 amdt 3.189
def ***site audit statement*** ins A1999-54 s 5 (a)
reloc from s 4 A2007-3 amdt 3.189
om A2011-28 amdt 3.108
def ***solid fuel-burning equipment*** ins A2007-3 amdt 3.201
am A2011-28 amdt 3.109
def ***stock*** ins A2011-28 amdt 3.110
am A2013-19 amdt 3.136
def ***stormwater*** ins A2011-28 amdt 3.110
def ***stormwater system*** ins A2011-28 amdt 3.110
def ***substance*** ins A2007-3 amdt 3.201
def ***unleaded petrol*** ins A2007-3 amdt 3.201
om A2007-39 amdt 1.5
def ***waste*** ins A2011-28 amdt 3.110
def ***waste transfer station*** ins A2014-52 s 49
def ***wastewater*** ins A2011-28 amdt 3.110
def ***water*** ins A2011-28 amdt 3.110
def ***waterway*** ins A2011-28 amdt 3.110
def ***working day*** reloc from s 4 A2007-3 amdt 3.189
def ***year*** ins A2011-28 amdt 3.110

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	A2000-12	31 May 2000
2	A2001-44	12 September 2001
3	A2001-91	24 September 2001
4	A2002-11	30 May 2002
5	A2002-56	1 July 2003
6*	A2003-41	9 October 2003
7	A2004-15	9 April 2004
8	A2004-15	13 April 2004
9	A2004-28	1 July 2004
10	A2004-28	19 July 2004
11	A2004-28	1 September 2004
12	A2004-57	9 March 2005
13	A2005-20	26 August 2005
14	A2005-20	12 November 2005
15*	A2005-62	11 January 2006
16	A2007-3	12 April 2007
17	A2007-17	1 July 2007
18	A2007-17	11 July 2007
19	SL2007-35	26 October 2007
20	SL2007-39	18 December 2007
21	SL2007-39	27 December 2007
22	SL2007-39	31 March 2008

Republication No	Amendments to	Republication date
23	SL2007-39	13 April 2008
24	SL2008-34	15 August 2008
25	A2008-37	2 February 2009
26	A2008-37	14 February 2009
27*	A2009-20	22 September 2009
28	SL2009-55	12 December 2009
29	SL2009-55	17 December 2009
30	A2010-18	3 June 2010
31	SL2010-31	3 August 2010
32	A2011-3	1 March 2011
33	A2011-8	17 March 2011
34	A2011-22	1 July 2011
35	A2011-28	12 September 2011
36	A2011-52	12 December 2011
37	A2012-25	29 May 2012
38	A2012-25	5 June 2012
39	A2012-30	14 June 2012
40	A2013-4	22 February 2013
41	A2013-19	14 June 2013
42	A2013-40	27 January 2014
43	A2014-52	12 November 2014
44	A2014-52	11 May 2015
45	A2015-12	21 May 2015