



Australian Capital Territory

# **Clinical Waste Act 1990**

**A1990-5**

**Republication No 15**

**Effective: 2 February 2009 – 21 September 2009**

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Last amendment made by A2008-37

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Clinical Waste Act 1990* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 2 February 2009. It also includes any amendment, repeal or expiry affecting the republished law to 2 February 2009.

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](http://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 or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### 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 *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

# Clinical Waste Act 1990

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Australian Capital Territory

# Clinical Waste Act 1990

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An Act relating to the treatment, storage, transportation and disposal of clinical waste

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## Part 1 Preliminary

### 1 Name of Act

This Act is the *Clinical Waste Act 1990*.

### 2 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 in this Act.

For example, the signpost definition '*connected*, for part 6 (Enforcement)—see section 31.' means that the term 'connected' is defined in that section for part 6.

*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)).

### 2A 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.



## **2B 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 all offences against this Act (see Code, pt 2.1).

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

*Note 2 Penalty units*

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

## **3 Declarations of clinical waste and prescribed activity**

- (1) The Minister may declare waste to be clinical waste for this Act.
- (2) The Minister may declare an activity to be a prescribed activity for this Act.
- (3) A declaration under this section is a disallowable instrument.

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

## **6 Radioactive material**

This Act does not apply to radioactive material within the meaning of the *Radiation Protection Act 2006*.

## Part 2 Administration

### 7 Clinical Waste Controller

The chief executive must appoint a public servant as the Clinical Waste Controller.

*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).

### 8 Delegation by controller

The controller may delegate to a public servant the controller's functions under this Act.

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

### 9 Inspectors

- (1) The chief executive may appoint a public servant as an inspector.

*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 controller is also an inspector.

### 10 Identity cards

- (1) The chief executive must give an authorised person an identity card stating the person's name and position.

- (2) The identity card must show—
- (a) a recent photograph of the person; and
  - (b) the card's date of issue and expiry; and

- (c) if the person is only authorised to exercise functions under particular provisions of this Act—the provisions; and
  - (d) anything else prescribed by regulation.
- (3) A person commits an offence if—
- (a) the person stops being an authorised person; and
  - (b) the person does not return the person's identity card to the chief executive as soon as practicable, but not later than 7 days after the day the person stops being an authorised person.

Maximum penalty: 1 penalty unit.

- (4) An offence against this section is a strict liability offence.
- (5) In this section:

*authorised person* means a person holding any of the following positions:

- (a) the controller;
- (b) a delegate of the controller with any delegated powers of an inspector;
- (c) an inspector mentioned in section 9 (3) (a).

## **11 Declaration of disposal sites**

- (1) The Minister may declare a place to be a disposal site for clinical waste.
- (2) A declaration is a notifiable instrument.

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

## Part 3 Clinical waste manual

### 14 Preparation of manual

- (1) The Minister must make a clinical waste manual for this Act.

*Note* Power given under an Act to make a statutory instrument (including the manual) includes power to amend or repeal the instrument (see Legislation Act, s 46 (1)).

- (2) The manual—

- (a) may contain requirements, not inconsistent with this Act, relating to—

(i) the way in which clinical waste may be stored, treated, transported or disposed of; or

(ii) the kinds of containers in which clinical waste may be stored or transported; or

(iii) the labelling and marking of containers used for the storage or transport of clinical waste; and

- (b) must contain—

(i) a list of waste disposal sites; and

(ii) if the Minister has approved under section 41 (Approved forms) an application form for a licence—the application form.

### 15 Notification and commencement of manual and amendments

- (1) The manual is a disallowable instrument.

*Note 1* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

*Note 2* An amendment or repeal of the manual is also a disallowable instrument (see Legislation Act, s 46 (2)).

- (2) The Minister must also publish in a daily newspaper circulating in the ACT a notice of the making of the manual.
- (3) The manual, or an amendment or repeal of it, commences—
  - (a) 15 days after the day it is notified under the Legislation Act; or
  - (b) if the manual, amendment or repeal provides for a later date or time of commencement—on that date or at that time.

## **18 Inspection of manual**

- (1) The controller must keep a copy of the manual at the controller's office at all times.
- (2) Any person may, on request, at any time the controller's office is open for business, inspect the copy of the manual kept by the controller.

## Part 4 Licences

### 19 Application for clinical waste transport licence

- (1) A person may apply for a licence to carry on the business of transporting clinical waste.
- (2) An application must be given to the controller and may be signed by or on behalf of the applicant.

*Note 1* If a form is approved by the Minister under s 41 (Approved forms) for an application, the form must be used.

*Note 2* A fee may be determined under s 40 (Determination of fees) for this section.

### 20 Grant or refusal

- (1) If an application for a licence has been made, the controller must—
  - (a) grant the licence subject to the conditions (if any) stated on the licence; or
  - (b) refuse to grant the licence.
- (2) For the purpose of making a decision under subsection (1), the controller must, in relation to the period to which the licence would relate, have regard to the following matters:
  - (a) whether the applicant has, or will have, the necessary facilities to transport clinical waste under this Act;

*Note* A reference to an Act includes a reference to the statutory instruments under the Act, including any regulation (see Legislation Act, s 104).

- (b) the terms of any contract that the applicant has entered into, or intends to enter into, in relation to the transport of clinical waste;

- (c) the volume and type of clinical waste that the applicant intends to transport;
  - (d) the arrangements that the applicant has made, or proposes to make, for the safe handling of clinical waste transported by the applicant;
  - (e) whether the applicant is, or undertakes to be, insured by an authorised insurer against any liability that may result from any activity that would be carried out under the licence, and whether that insurance will be adequate for that purpose;
  - (f) the degree of supervision that the applicant would exercise over people employed or engaged in activities that would be carried out under the licence;
  - (g) whether the applicant has previously engaged in the business of transporting clinical waste and whether, in the course of that business, clinical waste was handled in contravention of this Act or of legislation of a State or another Territory dealing with the treatment, storage, transportation or disposal of clinical waste;
  - (h) any other matters the controller reasonably believes to be relevant, including, in particular, the need to protect public health, property or the environment.
- (3) If the controller grants a licence subject to a condition or refuses to grant a licence, the controller must give written notice of the decision to the applicant.
- (4) In subsection (2) (e):
- authorised insurer*** means a person carrying on an insurance business in Australia under—
- (a) an authorisation under the *Insurance Act 1973* (Cwlth), part 3 (Authorisation to carry on insurance business); or
  - (b) a determination under that Act, section 7 (Determination that certain provisions do not apply).

**21 Duration**

- (1) A licence remains in force for the 12 months commencing on the day the licence is granted.
- (2) However, a licence must not be taken to be in force if it is suspended under section 23 or section 25.

**22 Variation**

- (1) If, after a licence has been granted, the controller believes on reasonable grounds that it is necessary to do so in the interests of the health or safety of any person affected by the licensee's activities, the controller may, by written notice to the licensee, vary a licence by—
  - (a) varying a condition of the licence; or
  - (b) revoking a condition; or
  - (c) imposing a condition on the licence.
- (2) The variation of a licence takes effect on—
  - (a) the date the notice of the variation is given to the licensee; or
  - (b) if a later date is stated in the notice, on that later date.
- (3) In this section:  
*licence* includes a licence that is suspended.
- (4) This section is subject to section 24.

**23 Suspension or cancellation**

- (1) This section applies if a licensee—
  - (a) is found guilty of an offence against this Act; or
  - (b) contravenes a condition of the licence; or
  - (c) contravenes a requirement in the manual.



- (2) If the controller believes on reasonable grounds that it is necessary to do so in the interests of the health or safety of any person affected by the licensee's activities, the controller may, by written notice to the licensee—
  - (a) suspend the licence for a stated period of not longer than 6 months; or
  - (b) cancel the licence.
- (3) The suspension or cancellation of the licence takes effect—
  - (a) on the day the notice of the suspension or cancellation is given to the licensee; or
  - (b) if a later day is stated in the notice—the later day.
- (4) This section is subject to section 24.

## **24 Notices**

- (1) The controller must not vary, or suspend or cancel a licence under section 23, unless the controller has given the licensee written notice that—
  - (a) states the ground on which the controller intends to vary, suspend or cancel the licence; and
  - (b) states the facts and circumstances that, in the controller's opinion, constitute that ground; and
  - (c) informs the licensee that the licensee may, within 28 days after the date of the notice, give to the controller a written response to the matters stated in the notice.

- (2) For the purpose of deciding whether to exercise the controller's functions under section 22 or 23, the controller must have regard to any response given in accordance with a notice under subsection (1).

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

## 25 Emergency suspension

- (1) This section applies if—
- (a) a licensee—
    - (i) is found guilty of an offence under this Act; or
    - (ii) contravenes a condition of the licence; or
    - (iii) contravenes a requirement in the manual; and
  - (b) the controller believes on reasonable grounds that it is necessary, to prevent or remove an imminent risk of death, serious illness or serious injury to a person (whether identified or not), to suspend the licence.
- (2) The controller may, by written notice to the licensee, suspend the licence for a stated period of not longer than 6 months.
- (3) The suspension takes effect on the day the notice is given to the licensee.

## 26 Return of licence

- (1) If the controller varies, suspends or cancels a licence, the licensee must return the licence to the controller within 7 days after the day the variation, suspension or cancellation takes effect.
- Maximum penalty: 5 penalty units.
- (2) An offence against this section is a strict liability offence.

- (3) If the licence has been varied, the controller must endorse the variation on the licence and return the licence to the licensee.

## Part 4A Notification and review of decisions

### 27 Meaning of *reviewable decision*—pt 4A

In this part:

*reviewable decision* means a decision mentioned in schedule 1, column 3 under a provision of this Act mentioned in column 2 in relation to the decision.

### 27A Reviewable decision notices

If a person makes a reviewable decision, the person must give a reviewable decision notice to each entity mentioned in schedule 1, column 4 in relation to the decision.

*Note 1* The person must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see *ACT Civil and Administrative Tribunal Act 2008*, s 67A).

*Note 2* The requirements for reviewable decision notices are prescribed under the *ACT Civil and Administrative Tribunal Act 2008*.

### 27B Application for review

The following may apply to the ACAT for review of a reviewable decision:

- (a) an entity mentioned in schedule 1, 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 5                      Offences

### 28                      Handling—general

A person commits an offence if the person—

- (a) stores, transports or disposes of clinical waste; and
- (b) is negligent about whether the way in which the waste is stored, transported or disposed of would cause injury or disease to someone dealing with the waste.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

### 29                      Handling—regulated premises

(1) A person commits an offence if—

- (a) the person stores, transports or disposes of clinical waste; and
- (b) the waste is derived from regulated premises; and
- (c) the person does not store, transport or dispose of the waste in accordance with the manual.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(2) An offence against this section is a strict liability offence.

**30 Unlicensed transport**

- (1) A person commits an offence if the person—
- (a) conducts a business of transporting clinical waste; and
  - (b) is not licensed to conduct the business.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) An offence against this section is a strict liability offence.

## Part 6 Enforcement

### 31 Meaning of *connected*—pt 6

For this part, 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, or is or was intended to be used, for the purpose of committing the offence.

### 32 Entry to premises

- (1) For this Act, an inspector may, without the authority of a warrant—
  - (a) enter regulated premises at any reasonable time; or
  - (b) enter any premises at any time with the consent of the occupier;

if the inspector believes on reasonable grounds that the premises are being used in connection with the storage, treatment, transportation or disposal of clinical waste.

- (2) An inspector who enters premises under subsection (1) is not entitled to remain on the premises if, on request by the occupier, the inspector does not produce his or her identity card to the occupier.

### 33 Consent to entry

- (1) An inspector who requests a person to consent to the inspector entering premises under section 32 (1) must inform the person that he or she may refuse to give consent.
- (2) If an inspector obtains the consent of a person to enter premises under section 32 (1), the inspector must ask the person to sign a written acknowledgment—

- (a) that the person has been informed that he or she may refuse to so consent; and
  - (b) that the person has consented; and
  - (c) of the day and time the person consented.
- (3) If it is material, in any proceedings, for a court to be satisfied that a person has consented to an inspector entering premises under section 32 (1) and an acknowledgment, in accordance with subsection (2), signed by the person is not produced in evidence, it must be presumed that the person did not consent, unless the contrary is established.

### **34 Powers of inspectors**

- (1) An inspector who is entitled under section 32 to remain on premises may—
- (a) inspect, examine, take measurements of, or conduct tests concerning, the premises or any system of work, plant, substance or thing at the premises; and
  - (b) inspect and test any container or equipment on the premises that the inspector believes on reasonable grounds to be used for the treatment, storage, transportation or disposal of clinical waste; and
  - (c) inspect and test any material or substance on the premises that the inspector believes on reasonable grounds to be clinical waste, and take samples of the material or substance; and
  - (d) take any photographs, video recordings or films in connection with the inspection that the inspector believes on reasonable grounds to be necessary; and
  - (e) seize anything that the inspector believes on reasonable grounds to be connected with an offence against this Act; and
  - (f) inspect any document on the premises relating to the treatment, storage, transportation or disposal of clinical waste; and



- (g) make copies of, or take extracts from, any such document; and
  - (h) require any person on the premises to make available to the inspector any document relating to the use of the premises in connection with the treatment, storage, transportation or disposal of clinical waste; and
  - (i) require any person on the premises to answer questions relating to the use of those premises in connection with the treatment, storage, transportation or disposal of clinical waste; and
  - (j) require any person on the premises to give the inspector any assistance that is necessary or reasonable to enable the inspector to exercise his or her powers under this section.
- (2) A person must take all reasonable steps to comply with a requirement made of the person under subsection (1) (h), (i) or (j).

Maximum penalty: 50 penalty units.

*Note* The Legislation Act, s 170 and s 171 deal with the application of the privilege against selfincrimination and client legal privilege.

### **35 Taking samples**

An inspector who takes a sample under section 34 (c) must—

- (a) ensure that the sample is such as to permit paragraph (c) to be complied with; and
- (b) give a receipt for the sample to the occupier of the premises where the sample was taken; and
- (c) divide the sample into 2 parts as nearly as practicable identical in size and composition to each other and each suitable for analysis; and
- (d) place each of those parts in a separate container and seal each container; and

- (e) attach to each container a label bearing the signature of the inspector and particulars of the date and time when, and the place where, the sample was taken; and
- (f) give 1 container to the occupier of the premises.

### **36 Disposal of seized things**

- (1) The controller must take reasonable steps to return a thing seized under section 34 (e) to the person from whom it was seized, or to someone else who appears to the controller to be entitled to it, if—
  - (a) a prosecution for an offence against this Act in relation to the thing is not started within 90 days after the day of the seizure; or
  - (b) a person is charged with an offence against this Act in relation to the thing within the 90-day period but the person is not convicted or found guilty of the offence.
- (2) If a person is convicted or found guilty of an offence against this Act in relation to a thing seized under section 34 (e), the court may order—
  - (a) that the thing be given to the person who appears to the court to be entitled to it; or
  - (b) that the thing be forfeited to the Territory.

### **37 Search warrants**

- (1) If an information on oath is laid before a magistrate alleging that there are 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 the information sets out those grounds, the magistrate may issue a search warrant authorising an inspector named in the warrant, with any assistance and force that is necessary and reasonable—
  - (a) to enter the premises; and

- (b) to search those premises for things of that kind; and
- (c) to exercise any of the powers under section 34 in relation to such a thing.

*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).

- (2) A magistrate must not issue a warrant under subsection (1) unless—
  - (a) the informant or some other person has given to the magistrate, either orally or by affidavit, any further information that the magistrate requires in relation to 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; and
  - (b) state the nature of the offence for which the entry, search and exercise of the functions under section 34 are authorised; and

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

- (c) state particular hours during which the entry is authorised or state that the entry is authorised at any time of day or night; and
- (d) include a description of the kinds of things for which the functions under section 34 may be exercised; and
- (e) state a day, not later than 1 month after the day of issue of the warrant, when the warrant ceases to have effect.

## Part 7                      Miscellaneous

### 39                      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).

#### **40 Determination of fees**

- (1) The Minister may determine fees for this Act.

*Note* The Legislation Act contains provisions about the making of determinations and regulations relating to fees (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.

#### **41 Approved forms**

- (1) The Minister may approve forms for this Act.
- (2) If the Minister approves a form for a particular purpose, the approved form must be used for that purpose.

*Note* For other provisions about forms, see the Legislation Act, s 255.

- (3) An approved form is a notifiable instrument.

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

#### **42 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 prescribe offences for contraventions of the regulations or requirements contained in the manual and prescribe maximum penalties of not more than 10 penalty units for offences against the regulations.

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## Schedule 1 Reviewable decisions

(see pt 4A)

| column 1<br>item | column 2<br>section | column 3<br>decision                | column 4<br>entity                |
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| 2                | 20 (1) (b)          | refuse to grant licence             | applicant for licence             |
| 3                | 22 (1)              | vary licence                        | licensee                          |
| 4                | 23 (2) (a)          | suspend licence                     | entity that has licence suspended |
| 5                | 23 (2) (b)          | cancel licence                      | entity that has licence cancelled |
| 6                | 25 (2)              | suspend licence                     | entity that has licence suspended |

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## Dictionary

(see s 2)

*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
- magistrate
- Minister (see s 162)
- person
- public servant
- reviewable decision notice
- State.

***clinical waste*** means any of the following, other than waste the treatment of which is completed in accordance with the manual:

- (a) waste consisting of a catheter, hypodermic needle, intravenous set, pipette or scalpel;
- (b) waste consisting of any other instrument or object that has been used in the taking of blood, the testing, processing or handling of blood or blood products, the investigation of human or animal diseases or in analysis or research that involves the use of tissue or fluid specimens, whether human or animal;
- (c) sanitary waste that originates from or has been in contact with a person who has a transmissible notifiable condition within the meaning of the *Public Health Act 1997*;
- (d) waste resulting from the investigation or analysis of tissue or fluid specimens, whether human or animal;
- (e) biological or chemical waste resulting from the investigation of human or animal diseases;

- (f) waste derived from a prescribed activity, being waste that includes or included human blood, or animal blood in any form other than food waste;
- (g) human or animal tissue or body fluids, removed during surgery or an autopsy;
- (h) waste consisting of a cytotoxic substance or waste that is, or is likely to be, contaminated by a cytotoxic substance;
- (i) waste consisting of anything that has been in contact with waste mentioned in a previous paragraph;
- (j) waste derived from the preparation of a human body for burial or cremation;
- (k) waste declared by the Minister under section 3 (Declarations of clinical waste and prescribed activity) to be clinical waste.

**connected**, for part 6 (Enforcement)—see section 31.

**controller** means the Clinical Waste Controller under section 7.

**inspector** means an inspector under section 9.

**licence** means a licence in force under this Act.

**manual** means the clinical waste manual under section 14.

**occupier**, in relation to premises, includes a person who is, or appears to be, in charge of the premises.

**offence against this Act** includes an offence against this Act that there are reasonable grounds for believing has been, or will be, committed.

*Note* A reference to an offence against a territory law includes a reference to a related ancillary offence, eg attempt (see Legislation Act, s 189).

**premises** includes—

- (a) a structure, building, aircraft, vehicle or vessel; and
- (b) a place (whether enclosed or built upon or not); and



- 
- (c) a part of premises (including premises of a kind referred to in paragraph (a) or (b)).

***prescribed activity*** means—

- (a) the provision of medical, surgical or dental treatment, or nursing care; or
- (b) the provision of diagnostic or paramedical services; or
- (c) the provision of veterinary services; or
- (d) a practice, business or undertaking—
- (i) conducted by a pharmacist, chiropodist or podiatrist; or
  - (ii) that involves the taking of blood or the testing, processing or handling of blood or blood products; or
  - (iii) that involves tattooing, acupuncture, depilation, ear or nose piercing, hair restoration or any other process requiring penetration of the skin of a live person; or
  - (iv) that involves the investigation of human or animal diseases; or
  - (v) that involves analysis or research involving the use of tissue or fluid specimens, whether human or animal; or
- (e) an activity declared by the Minister under section 3 (Declarations of clinical waste and prescribed activity) to be a prescribed activity.

***regulated premises*** means—

- (a) a hospital; or
- (b) premises used primarily for the provision of accommodation and nursing care, or nursing care; or
- (c) a funeral parlour; or
- (d) a mortuary; or

(e) any other premises at which a prescribed activity is conducted or carried on.

**reviewable decision**, for part 4A (Notification and review of decisions)—see section 27.

**waste disposal site**, in relation to clinical waste of a particular kind, means a place declared by the Minister under section 11 to be a disposal site for clinical waste of that kind.

## 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, 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 and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

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

|   |   |
|---|---|
| am = amended  | ord = ordinance   |
| amdt = amendment                                    | orig = original   |
| ch = chapter  | par = paragraph/subparagraph                                      |
| def = definition                                    | pres = present  |
| dict = dictionary                                   | prev = previous   |
| disallowed = disallowed by the Legislative Assembly | (prev...) = previously  |
| div = division                                      | pt = part   |
| exp = expires/expired                               | r = rule/subrule  |
| Gaz = Gazette                                       | renum = renumbered  |
| hdg = heading                                       | reloc = relocated   |
| IA = Interpretation Act 1967                        | R[X] = Republication No   |
| ins = inserted/added                                | RI = reissue  |
| LA = Legislation Act 2001                           | s = section/subsection  |
| LR = legislation register                           | sch = schedule  |
| LRA = Legislation (Republication) Act 1996          | sdiv = subdivision  |
| mod = modified/modification                         | sub = substituted   |
| o = order   | SL = Subordinate Law  |
| om = omitted/repealed                               | <u>underlining</u> = whole or part not commenced or to be expired |

### 3 Legislation history

#### Clinical Waste Act 1990 No 5

notified 9 April 1990 (Gaz 1990 No S14)

## Endnotes

3 Legislation history

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commenced 9 October 1990 (s 2 (2))

as amended by

**Acts Revision (Position of Crown) Act 1993 No 44 sch 2**

notified 27 August 1993 (Gaz 1993 No S165)

sch 2 commenced 27 August 1993 (s 2)

**Public Sector Management (Consequential and Transitional Provisions) Act 1994 No 38 sch 1 pt 16**

notified 30 June 1994 (Gaz 1994 No S121)

s 1, s 2 commenced 30 June 1994 (s 2 (1))

sch 1 pt 16 commenced 1 July 1994 (s 2 (2) and Gaz 1994 No S142)

**Administrative Appeals (Consequential Amendments) Act 1994 No 60 sch 1**

notified 11 October 1994 (Gaz 1994 No S197)

s 1, s 2 commenced 11 October 1994 (s 2 (1))

sch 1 commenced 14 November 1994 (s 2 (2) and Gaz 1994 No S250)

**Statutory Offices (Miscellaneous Provisions) Act 1994 No 97 sch pt 1**

notified 15 December 1994 (Gaz 1994 No S280)

s 1, s 2 commenced 15 December 1994 (s 2 (1))

sch pt 1 commenced 15 December 1994 (s 2 (2) and Gaz 1994 No S293)

**Annual Reports (Government Agencies) (Consequential Provisions) Act 1995 No 25 sch**

notified 5 September 1995 (Gaz 1995 No S212)

sch commenced 5 September 1995 (s 2)

**Public Health (Miscellaneous Provisions) Act 1997 No 70 sch 3**

notified 9 October 1997 (Gaz 1997 No S300)

ss 1-3 commenced 9 October 1997 (s 2 (1))

sch 3 commenced 10 July 2001 (s 2 (2) and Gaz 2001 No S45)

**Statute Law Revision (Penalties) Act 1998 No 54 sch**

notified 27 November 1998 (Gaz 1998 No S207)

s 1, s 2 commenced 27 November 1998 (s 2 (1))

sch commenced 9 December 1998 (s 2 (2) and Gaz 1998 No 49)

**Legislation (Consequential Amendments) Act 2001 No 44 pt 64**

notified 26 July 2001 (Gaz 2001 No 30)

s 1, s 2 commenced 26 July 2001 (IA s 10B)  
pt 64 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

**Legislation Amendment Act 2002 No 11 pt 2.8**

notified LR 27 May 2002  
s 1, s 2 commenced 28 May 2002 (LA s 75)  
pt 2.8 commenced 28 May 2002 (s 2 (1))

**Criminal Code 2002 No 51 pt 1.5**

notified LR 20 December 2002  
s 1, s 2 commenced 20 December 2002 (LA s 75 (1))  
pt 1.5 commenced 1 January 2003 (s 2 (1))

**Criminal Code (Theft, Fraud, Bribery and Related Offences)  
Amendment Act 2004 A2004-15 sch 1 pt 1.5, sch 2 pt 2.17**

notified LR 26 March 2004  
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))  
sch 1 pt 1.5, sch 2 pt 2.17 commenced 9 April 2004 (s 2 (1))

**Criminal Code Harmonisation Act 2005 A2005-54 sch 1 pt 1.13**

notified LR 27 October 2005  
s 1, s 2 commenced 27 October 2005 (LA s 75 (1))  
sch 1 pt 1.13 commenced 24 November 2005 (s 2)

**Sentencing Legislation Amendment Act 2006 A2006-23 sch 1 pt 1.4**

notified LR 18 May 2006  
s 1, s 2 commenced 18 May 2006 (LA s 75 (1))  
sch 1 pt 1.4 commenced 2 June 2006 (s 2 (1) and see Crimes  
(Sentence Administration) Act 2005 A2005-59 s 2, Crimes  
(Sentencing) Act 2005 A2005-58, s 2 and LA s 79)

**Radiation Protection Act 2006 A2006-33 sch 1 pt 1.1**

notified LR 31 August 2006  
s 1, s 2 commenced 31 August 2006 (LA s 75 (1))  
sch 1 pt 1.1 commenced 1 July 2007 (s 2 (3))

**Statute Law Amendment Act 2007 A2007-3 sch 3 pt 3.18**

notified LR 22 March 2007  
s 1, s 2 taken to have commenced 1 July 2006 (LA s 75 (2))  
sch 3 pt 3.18 commenced 12 April 2007 (s 2 (1))

**Statute Law Amendment Act 2007 (No 3) A2007-39 sch 3 pt 3.6**

notified LR 6 December 2007

## Endnotes

4 Amendment history

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s 1, s 2 commenced 6 December 2007 (LA s 75 (1))  
sch 3 pt 3.6 commenced 27 December 2007 (s 2)

### **Statute Law Amendment Act 2008 A2008-28 sch 3 pt 3.13**

notified LR 12 August 2008  
s 1, s 2 commenced 12 August 2008 (LA s 75 (1))  
sch 3 pt 3.13 commenced 26 August 2008 (s 2)

### **ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 (No 2) A2008-37 sch 1 pt 1.21**

notified LR 4 September 2008  
s 1, s 2 commenced 4 September 2008 (LA s 75 (1))  
sch 1 pt 1.21 commenced 2 February 2009 (s 2 (1) and see ACT Civil and Administrative Tribunal Act 2008 A2008-35, s 2 (1) and CN2009-2)

## 4 Amendment history

### **Name of Act**

s 1 sub A2007-3 amdt 3.74

### **Dictionary**

s 2 **orig s 2**  
om 2001 No 44 amdt 1.739  
**prev s 2**  
(prev s 3 (1)) am and renum as s 2 2001 No 44 amdt 1.740  
defs reloc to dict A2007-3 amdt 3.76  
om A2007-3 amdt 3.77  
def **Appeals Tribunal** om 1994 No 60 sch 1  
def **determined fee** om 2001 No 44 amdt 1.742  
**pres s 2**  
ins A2007-3 amdt 3.77

### **Notes**

s 2A ins A2005-54 amdt 1.77

### **Offences against Act—application of Criminal Code etc**

s 2B ins A2005-54 amdt 1.77

### **Declarations of clinical waste and prescribed activity**

s 3 sub 2001 No 44 amdt 1.745

### **References to offences against this Act**

s 4 rep 1993 No 44 sch 2  
ins 2001 No 44 amdt 1.745  
om 2002 No 11 amdt 2.16

### **Crown not liable to prosecution**

s 5 rep 1993 No 44 sch 2

**Radioactive material**

s 6 sub A2006-33 amdt 1.1

**Clinical Waste Controller**

s 7 sub 1994 No 97 sch pt 1; A2007-3 amdt 3.78  
(2)-(4) exp 12 April 2008 (s 7 (4) (LA s 88 declaration applies))

**Delegation by controller**

s 8 sub A2007-3 amdt 3.79

**Inspectors**

s 9 sub 1994 No 97 sch pt 1; A2007-3 amdt 3.80  
(3)-(5) exp 12 April 2008 (s 9 (5) (LA s 88 declaration applies))

**Identity cards**

s 10 sub 1994 No 97 sch pt 1  
am 1998 No 54 sch; R3 LA  
sub A2005-54 amdt 1.78  
(6)-(8) exp 24 November 2005 (s 10 (8))

**Declaration of disposal sites**

s 11 sub 2001 No 44 amdt 1.746

**Fees**

s 12 om 2001 No 44 amdt 1.746

**Annual report**

s 13 am 1994 No 38 sch 1 pt 16  
om 1995 No 25 sch

**Preparation of manual**

s 14 am 2001 No 44 amdts 1.747-1.749

**Notification and commencement of manual and amendments**

s 15 sub 2001 No 44 amdt 1.750

**Publication**

s 16 om 2001 No 44 amdt 1.750

**Manual to be disallowable**

s 17 om 2001 No 44 amdt 1.750

**Application for clinical waste transport licence**

s 19 sub 2001 No 44 amdt 1.751

**Grant or refusal**

s 20 am 1994 No 60 sch 1; A2007-39 amdt 3.13

**Variation**

s 22 am A2008-28 amdt 3.43, amdt 3.44; ss renum R14 LA

**Suspension or cancellation**

s 23 sub A2008-28 amdt 3.45

## Endnotes

4 Amendment history

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### **Emergency suspension**

s 25 am 1994 No 60 sch 1  
sub A2008-28 amdt 3.46

### **Return of licence**

s 26 am 1998 No 54 sch  
sub A2005-54 amdt 1.79

### **Notification and review of decisions**

pt 4A hdg ins A2008-37 amdt 1.76

### **Meaning of *reviewable decision*—pt 4A**

s 27 am 1994 No 60 sch 1; A2008-28 amdt 3.47  
sub A2008-37 amdt 1.76

### **Reviewable decision notices**

s 27A ins A2008-37 amdt 1.76

### **Application for review**

s 27B ins A2008-37 amdt 1.76

### **Handling—general**

s 28 am 1998 No 54 sch  
sub A2005-54 amdt 1.80

### **Handling—regulated premises**

s 29 am 1998 No 54 sch  
sub A2005-54 amdt 1.80

### **Unlicensed transport**

s 30 am 1998 No 54 sch  
sub A2005-54 amdt 1.80

### **Meaning of *connected*—pt 6**

s 31 hdg sub A2007-3 amdt 3.81

### **Powers of inspectors**

s 34 am A2005-54 amdt 1.81, amdt 1.82

### **Disposal of seized things**

s 36 sub A2006-23 amdt 1.37

### **Search warrants**

s 37 am 2001 No 44 amdt 1.752, amdt 1.753; A2008-28 amdt 3.48

### **Obstructing inspectors**

s 38 am 1998 No 54 sch; A2004-15 amdt 2.43  
om A2005-54 amdt 1.83

### **Acts and omissions of representatives**

s 39 sub A2004-15 amdt 1.5



**Determination of fees**

s 40 am 1998 No 54 sch  
sub 2001 No 44 amdt 1.754

**Approved forms**

s 41 ins 2001 No 44 amdt 1.754  
am A2007-3 amdt 3.82

**Regulation-making power**

s 42 ins 2001 No 44 amdt 1.754

**Reviewable decisions**

sch 1 ins A2008-37 amdt 1.77

**Dictionary**

dict ins A2007-3 amdt 3.83  
am A2008-37 amdt 1.78, amdt 1.79  
def **clinical waste** am 1997 No 70 sch 3; 2001 No 44  
amdt 1.741  
reloc from s 2 A2007-3 amdt 3.76  
sub A2008-28 amdt 3.49  
def **connected** ins A2007-3 amdt 3.83  
def **controller** sub 1994 No 97 sch  
reloc from s 2 A2007-3 amdt 3.76  
def **inspector** ins 1994 No 97 sch  
reloc from s 2 A2007-3 amdt 3.76  
def **licence** reloc from s 2 A2007-3 amdt 3.76  
def **manual** sub 2001 No 44 amdt 1.743; A2007-3 amdt 3.75  
reloc from s 2 A2007-3 amdt 3.76  
def **occupier** reloc from s 2 A2007-3 amdt 3.76  
def **offence against this Act** ins 2002 No 11 amdt 2.15  
am 2002 No 51 amdt 1.7  
reloc from s 2 A2007-3 amdt 3.76  
def **premises** reloc from s 2 A2007-3 amdt 3.76  
def **prescribed activity** am 2001 No 44 amdt 1.744  
reloc from s 2 A2007-3 amdt 3.76  
def **regulated premises** reloc from s 2 A2007-3 amdt 3.76  
def **reviewable decision** ins A2008-37 amdt 1.80  
def **waste disposal site** reloc from s 2 A2007-3 amdt 3.76

**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

## Endnotes

### 5 Earlier republications

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are marked with an asterisk (\*) in column 1. Electronic and printed versions of an authorised republication are identical.

| <b>Republication No</b> | <b>Amendments to</b> | <b>Republication date</b> |
|-------------------------|----------------------|---------------------------|
| 1                       | Act 1994 No 97       | 30 June 1995              |
| 2                       | Act 1998 No 54       | 31 January 1999           |
| 3                       | Act 2001 No 44       | 9 November 2001           |
| 4                       | Act 2002 No 11       | 29 May 2002               |
| 5                       | A2002-51             | 1 January 2003            |
| 6                       | A2004-15             | 9 April 2004              |
| 7                       | A2005-54             | 24 November 2005          |
| 8                       | A2005-54             | 25 November 2005          |
| 9                       | A2006-23             | 2 June 2006               |
| 10                      | A2007-3              | 12 April 2007             |
| 11                      | A2007-3              | 1 July 2007               |
| 12*                     | A2007-39             | 27 December 2007          |
| 13                      | A2007-39             | 13 April 2008             |
| 14                      | A2008-28             | 26 August 2008            |

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